

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NADIA MARY METROKA,

Plaintiff,

V.

DOCKET NO. 23-00601

PENNSYLVANIA STATE LAW
ENFORCEMENT, MONTGOMERY
COUNTY, LOWER MORELAND
TOWNSHIP POLICE AND/OR AGENCY
DEPARTMENT, KELLY E. HEIST,
INDIVIDUALLY AND AS
OFFICER/AGENT OF FOR LOWER
MORELAND TOWNSHIP POLICE
AND/OR AGENCY, GOOGLE

Defendants.

ORDER

AND NOW, this _____ day of _____, 2023, upon consideration of Defendants, Lower Moreland Township Police Department and Officer Kelly E. Heist's Motion to Dismiss Plaintiff's Amended Complaint, and any response thereto, it is hereby ORDERED and DECREED that the Motion is GRANTED. Plaintiff's claims against Lower Moreland Township Police and/or Agency Department and Officer Kelly E. Heist are DISMISSED, with prejudice.

It is further ORDERED that Plaintiff is barred from filing any further claims against Lower Moreland Township Police Department, Lower Moreland Township, and/or Officer Kelly E. Heist without leave of Court.

BY THE COURT

By: _____, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NADIA MARY METROKA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	DOCKET NO. 23-00601
	:	
PENNSYLVANIA STATE LAW	:	
ENFORCEMENT, MONTGOMERY	:	
COUNTY, LOWER MORELAND	:	
TOWNSHIP POLICE AND/OR AGENCY	:	
DEPARTMENT, KELLY E. HEIST,	:	
INDIVIDUALLY AND AS	:	
OFFICER/AGENT OF FOR LOWER	:	
MORELAND TOWNSHIP POLICE	:	
AND/OR AGENCY, GOOGLE	:	
	:	
Defendants.	:	
	:	

**DEFENDANTS, LOWER MORELAND TOWNSHIP POLICE DEPARTMENT AND
OFFICER KELLY E. HEIST’S MOTION TO DISMISS PLAINTIFF’S AMENDED
COMPLAINT (ECF 12) PURSUANT TO FED.R.CIV.P. 12(b)(6)**

Defendant, Lower Moreland Township Police and/or Agency Department (“LMT Police”) and Officer Kelly E. Heist (“Officer Heist”) (hereinafter, collectively, “Moving Defendants”) by and through their undersigned counsel, MacMain Leinhauser PC, respectfully request This Honorable Court dismiss Plaintiff’s Amended Complaint (ECF 12) for failure to state a claim upon which relief can be granted. The Brief in Support of Moving Defendants’ Motion to Dismiss is incorporated herein by reference as if fully set forth herein and attached hereto.

WHEREFORE, Moving Defendants respectfully request that this Honorable Court grant their Motion to Dismiss Plaintiff’s Amended Complaint, with prejudice, and enter an order in the form of the attached proposed order.

MACMAIN LEINHAUSER PC

Dated: March 23, 2023

By: /s/ David J. MacMain
David J. MacMain
Brian C. Conley
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*Attorneys for Defendants Lower Moreland
Township Police Department and Officer
Kelly Heist*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NADIA MARY METROKA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
PENNSYLVANIA STATE LAW	:	DOCKET NO. 23-00601
ENFORCEMENT, ET. AL.	:	
	:	
Defendants.		

**BRIEF IN SUPPORT OF DEFENDANTS, LOWER MORELAND TOWNSHIP POLICE
DEPARTMENT AND OFFICER KELLY E. HEIST’S MOTION TO DISMISS
PLAINTIFF’S AMENDED COMPLAINT (ECF 12) PURSUANT TO F.R.C.P. 12(b)(6)**

Lower Moreland Township Police Department (“the Department”) and Officer Kelly E. Heist (“Officer Heist”) (hereinafter, collectively, “Moving Defendants”) by and through their undersigned counsel, MacMain Leinhauser PC, submit this Brief in support of their Motion to Dismiss Plaintiff’s Amended Complaint (ECF 12) pursuant to F.R.C.P. 12(b)(6).

I. INTRODUCTION

Plaintiff’s claims against Moving Defendants stem from her arrest and criminal charges related to an incident involving harassment and criminal mischief during a physical altercation with her father and the subsequent posting of the arrest information on the website “CrimeWatch.” Despite couching them as a civil rights claims, Plaintiff asserts primarily legally insufficient state law tort claims and claims for which she fails to allege a right to relief.

Moving Defendants are also – unfortunately – very familiar with *pro se* Plaintiff,¹ after she previously sought the exact same relief she seeks in the instant lawsuit in the Court of Common Pleas of Montgomery County, Pennsylvania. Having been unsuccessful in state Court, Plaintiff seeks to relitigate her meritless claims in a different forum. Lacking in merit and

¹ Plaintiff is an attorney barred in the State of Florida, but is proceeding in this matter *pro se*. As Plaintiff alluded to – but mischaracterized – in the Complaint (ECF 10, n. 3), the undersigned was forced to file an ethics complaint with the Florida bar after Plaintiff threatened him with criminal acts and defamation.

otherwise barred by the doctrine of res judicata, Plaintiff's claims against Moving Defendants should be dismissed, with prejudice.

II. PROCEDURAL HISTORY

Plaintiff initiated the instant action by filing a Request for an Emergency Injunction (ECF 1), seeking removal of the CrimeWatch post. On March 16, 2023, after This Court declined to schedule a hearing at Plaintiff's request and ordered Plaintiff to review the applicable pro se guidelines, Plaintiff filed a "Complaint" against Moving Defendants and several other parties. (ECF 10). On March 17, 2023, Plaintiff filed an "Amended Complaint," that is nearly identical in form and substance to the Complaint filed on March 16, 2023² (ECF 12); Plaintiff also filed two amended requests for injunctions (ECF 9 and ECF 11) seeking the removal of the CrimeWatch post.

According to the Rules of Civil Procedure, a Plaintiff may commence an action by filing a complaint (F.R.C.P. 3) and may amend her pleading once as a matter of course without leave or the consent of the parties (F.R.C.P. 15). Because the initial and amended requests for injunctions are not proper case-initiating filings, and the Amended Complaint was filed as a matter of course within a day of the Complaint, Answering Defendants will consider the Amended Complaint (ECF 12) ("ACOM") as the operative filing and respond accordingly.

Prior to initiating this action, Plaintiff filed a nearly identical complaint ("Montco Complaint") in the Court of Common Pleas of Montgomery County, Pennsylvania ("Montco Matter"). *See Metroka v. Lower Moreland Township Police, et al.*, C.C.P. Montgomery Cnty., No. 2022-16003. The Montco Complaint and a Docket Sheet for the Montco Matter are attached hereto as Exhibits 1 and 2, respectively. It appears the Montco Complaint and the ACOM in this

² The only differences are the removal of several footnotes and the deletion of a duplicate page.

matter differ only in the content of their footnotes and the addition of references to the Montgomery County matter. On November 23, 2022, the Montgomery County Court of Common Pleas (Judge Tolliver) sustained Moving Defendant's Preliminary Objections, dismissing all claims against them with prejudice, except for the Section 1983 claim,³ which was dismissed without prejudice.⁴ *See* the November 23, 2022 Order, attached hereto as Exhibit 3.

Finally, identical to the relief requested in ECF 1, 9, and 11 in the instant matter, Plaintiff also moved for Injunctive Relief in the Montco Matter. *See* Exhibit 2, at p.2, Doc. No. 20; *see also* Plaintiff's Request for Emergency Injunction, attached hereto as Exhibit 4. On November 29, following a hearing, the Montgomery County Court of Common Pleas (Judge Moore) denied Plaintiff's Request for Emergency Injunction. Plaintiff subsequently filed an appeal to the Commonwealth Court of Pennsylvania regarding the denial of the Request for Injunction, only. *See Metroka v. Lower Moreland Twp.*, et al, No. 1512 CD 2022, the docket of which is attached hereto as Exhibit 5; *see also* the Notice of Appeal, attached hereto as Exhibit 6. Thereafter, on February 27, 2023, Judge Moore issued a Rule 1925 Opinion, which is attached as Exhibit 7.

III. FACTS⁵

On June 21, 2022, there was an incident between Plaintiff and her father that resulted in her father calling the police. (ACOM, p.2-3, ¶ 7)⁶ The police arrived and arrested Plaintiff, who was charged with criminal mischief, harassment (subjecting others to physical contact), and simple assault. *See* Criminal Docket, *Com. v. Metroka*, Court of Common Pleas of Montgomery

³ Identified in the Montco Complaint as Count "VIV," but in the Order correctly identified as "Count IX."

⁴ Plaintiff failed to file an Amended Complaint in the Montco Matter.

⁵ Without admitting the same, the facts herein are taken from the ACOM for the purpose of this Motion, only.

⁶ Note: the ACOM contains several paragraphs that are numbered out of order, including paragraph 7 on p. 2-3.

County, Docket No. CP-46-CR-4359-2022, attached hereto as Exhibit 8.^{7, 8} On July 21, 2022, an article was published on CrimeWatch pertaining to the June 21, 2022 arrest of Plaintiff. (ACOM, ¶ 17; *see also* Exhibit A to ACOM⁹).

IV. STANDARD OF REVIEW

A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) tests the legal sufficiency of a complaint. *Sturm v. Clark*, 835 F.2d 1009, 1011 (3d Cir. 1987). A motion to dismiss for failure to state a claim may be granted if, after accepting all well-pleaded facts in the complaint as true, and viewing them in the light most favorable to the non-moving party, plaintiff is not entitled to relief. *Maio v. Aetna, Inc.*, 221 F.3d 472, 482 (3d Cir. 2000). In deciding a Motion to Dismiss, Courts may consider only those allegations contained in the complaint, attached exhibits, matters of public record, and undisputedly authentic documents upon which the claims are based. *Mayer v. Belichick*, 605 F.3d 223, 230 (3d Cir. 2010).

Although a complaint need not contain detailed factual allegations, it must have more than unadorned, “the-defendant-unlawfully-harmed-me,” accusations. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). To survive dismissal, the complaint must contain sufficient factual matter, accepted as true, to “state a claim for relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A plaintiff’s obligation...to provide the ‘grounds’ of his ‘entitlement to relief’ requires more than labels and conclusions, and the formulaic recitation of the elements of a cause of action will not do.” *Id.* at 1964-65. The Supreme Court makes it clear that the assumption of truth does not apply to legal conclusions

⁷ A Court may consider matters of public record, including court dockets, on a Motion to Dismiss. *Gov’t Emples. Ins. Co. v. Nealy*, 262 F.Supp.3d 153, 167 n. 12 (E.D.Pa. 2017) (citing *Lum v. Bank of Am.*, 361 F.3d 217, 222 n. 3 (3d Cir. 2004)).

⁸ The simple assault charge was dismissed at the magistrate level, while the other two charges were held for court. The criminal matter remains pending and is awaiting trial. *See* Exhibit 1.

⁹ No exhibits are attached to the ACOM; the CrimeWatch post is found at ECF 1-4, Exhibit A1-A5, pp. 2-6 of 94.

couched as factual allegations, or to “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Iqbal*, 129 S. Ct. at 1949.

V. ARGUMENT

A. Plaintiff’s Claims a Barred by the Doctrine of *Res Judicata*

Plaintiff’s claims must be dismissed in their entirety under the doctrine of *res judicata* because they have already been adjudicated and dismissed by the Court of Common Pleas of Montgomery County, Pennsylvania.

The doctrine of *res judicata* requires federal courts to give state court judgments the same preclusive effect that the issuing state courts would give them. *Rycoline Prods., Inc. v. C&W Unlimited*, 109 F.3d 883, 887 (3d Cir. 1997). The doctrine “bars a party from initiating a second suit against the same adversary based on the same ‘cause of action’ as the first suit.” *Duhaney v. Att’y Gen. of the U.S.*, 621 F.3d 340, 347 (3d Cir. 2010). While the doctrine is sometimes referred to in narrower terms as “claim preclusion,” whereas collateral estoppel refers to “issue preclusion,” the Third Circuit has noted that “the preferred usage” of the term *res judicata* “encompasses both claim and issue preclusion.” *Venuto v. Witco Corp.*, 117 F.3d 754, 758 n.5 (3d Cir. 1997). To prevail on the defense of claim preclusion, a defendant must establish three elements: “(1) a final judgment on the merits in a prior suit involving (2) the same parties or their privies and (3) a subsequent suit based on the same cause of action.” *Duhaney*, 621 F.3d at 347 (quoting *In re Mullarkey*, 536 F.3d 215, 225 (3d Cir. 2008)). Claim preclusion applies to all claims actually brought or which could have been brought in a prior action regardless of whether they were asserted or determined in the prior proceeding. See *Inofast Mfg., Inc. v. Bardsley*, 103 F. Supp. 2d 847, 849 (E.D. Pa. 2000) (citing *Brown v. Felsen*, 442 U.S. 127, 131 (1979)); *Donahue v. Gavin*, No. 98-1602, 1999 U.S. Dist. LEXIS 2760, at *2 (E.D. Pa. Mar. 12, 1999)

In deciding whether to give preclusive effect to a state court judgment, the rendering state's law on preclusion is applied. *Marrese v. Am. Acad. Of Ortho. Surgeons*, 470 U.S. 373, 380-81 (1985). Accordingly, Pennsylvania law applies to determine res judicata in this case.

The Supreme Court of Pennsylvania has explained that res judicata:

bars a later action on all or part of the claim which was the subject of the first action. Any final, valid judgment on the merits by a court of competent jurisdiction precludes any future suit between the parties or their privies on the same cause of action. Res judicata applies not only to claims actually litigated, but also to claims which could have been litigated during the first proceeding if they were part of the same cause of action.

Balent v. City of Wilkes-Barre, 669 A.2d 309, 313 (Pa. 1995).

The doctrine will bar a later action if the two actions in question share the following four conditions: (1) the thing sued upon, (2) the cause of action, (3) the persons and parties to the action; and (4) the capacity of the parties to sue or be sued. *Russo v. City of Philadelphia*, 459 Fed.Appx. 176, 179 (3d Cir. 2012); *see also Turner v. Crawford Sq. Apts.*, 449 F.3d 542, 548 (3d Cir. 2006) (citing *Bearhoff v. Bearhoff Bros., Inc.*, 485 Pa. 494 (Pa. 1974)).

In this case, all four factors are present, and, accordingly, Plaintiff's claims are barred by res judicata. Given that the Montco Complaint and Plaintiff's Amended Complaint here are virtually identical, little analysis is necessary to determine whether res judicata bars the instant matter. Out of an abundance of caution, however, they will be addressed.

With regard to the first condition – identity of the thing sued upon – the things sued upon are the same. Plaintiff seeks recovery for harm allegedly done to her by the posting of information concerning her arrest on June 21, 2020. Indeed, even the requests for injunction in each matter are identical – Plaintiff seeks the removal of the CrimeWatch post.

Regarding the second factor, the cause(s) of action are identical in each case. The Montco Complaint and the Amended Complaint are near verbatim copies, both alleging the following causes of action against the Moving Defendants:¹⁰ Defamation (Count I); Fraud (Count II); Publicity to a Private Matter (Count III); Negligent Infliction of Emotional Distress (Count IV); Intentional Infliction of Emotional Distress (Count V); Negligence (Count VI); Negligence Per Se¹¹ (Count VII); Gross Negligence (Count VIII)¹²; Tortious Interference with Contractual Obligation (Count VIX)¹³; 42 U.S.C. § 1983 (Count X); and Copyright and Trademark Infringement (Count XIII).¹⁴

Regarding the third and fourth factors, while the parties named in the caption of each case differ slightly,¹⁵ the difference is immaterial. *See* Exhibits 2 and 3. “Res judicata will not be defeated by minor differences of form, parties or allegations where the [ultimate and controlling] issues have been resolved in a prior proceeding in which the present parties had an opportunity to appear and assert their rights.” *Massullo v. Hamburg, Rubin, Mullin, Maxwell & Lupin, P.C.*, 1999 U.S. Dist. LEXIS 7177, at *5 (E.D. Pa. May 17, 1999); *see also Jett v. Beech Interplex, Inc.*, 2004 U.S. Dist. LEXIS 13352, at *3 (E.D. Pa. July 15, 2004). There is no question that the parties and their capacities to be sued, as relevant to this Motion, are the same.

Although not an element, Moving Defendants note that the Montco Complaint was decided in a final judgment on the merits. Moving Defendants filed Preliminary Objections in

¹⁰ Compare ECF 12 with Exhibit 1, attached hereto.

¹¹ As to Officer Heist, only.

¹² The numbering of this claim as “Count VII” in the Montco Complaint is duplicative and affects the remaining numbering in the Montco Complaint.

¹³ Incorrectly numbered as “Count VIII” in the Montco Complaint and as “Count VIV” in the ACOM.

¹⁴ The remaining claims are directed to other defendants and are omitted here for brevity.

¹⁵ In the Montco Complaint, Plaintiff named the following defendants: Lower Moreland Township Police Department, Kelly E. Heist, Google, Abington Memorial Hospital, and Capital Blue. *See* Exhibit 2. However, Plaintiff only served Abington Memorial Hospital, and the claims against it were dismissed. *See* Exhibit 3. In this case, the defendants are listed as: Pennsylvania State Law Enforcement, Montgomery County, “Lower Moreland Township Police and/or Agency Department,” Kelly E. Heist, and Google.

the nature of a demurrer, which were sustained and all counts, except the § 1983 claim, were dismissed with prejudice. *See* Exhibits 3 and 4. “For res judicata purposes, a judgment on the merits ‘is one that actually pass[es] directly on the substance of [a particular] claim before the court.’” *Weinar v. Lex*, 176 A.3d 907, 915 (Pa. Super. Ct. 2017) (quoting *Semtek Int’l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 501-02 (2017)). Dismissal for failure to state a claim constitutes final judgment on the merits. *Garland v. Gardner*, 2020 U.S. Dist. LEXIS 101962, at * 12-13 (E.D.Pa., June 10, 2020). While the § 1983 claim was dismissed without prejudice, Plaintiff failed to timely amend her complaint¹⁶ or appeal the dismissal, rendering the dismissal final as to that claim also. *Love v. Temple University*, 220 A.2d 838, 840 (Pa. 1966) (plaintiff’s failure to appeal after preliminary objections were sustained “renders the doctrine of res judicata applicable and precludes vacation of an order after the time to appeal has passed.”); *Westbury Realty Corp. v. Lancaster Shopping Center, Inc.*, 152 A.2d 669, 671 (Pa. 1959) (holding that where dismissal without prejudice is limited in scope, the order of dismissal is final).

Thus, Plaintiff’s claims are barred by res judicata, and must be dismissed, with prejudice.

B. Plaintiff’s Claims Fail on the Merits

Alternatively, Plaintiff’s claims fail on the merits.

1. The Department must be dismissed as an improper defendant.

It is well settled that a police department is not a proper defendant in a civil suit. Pennsylvania Rule of Civil Procedure 2102(b) provides that “[a]n action shall be brought by or against a political subdivision in its name.” Pa.R.C.P. No. 2102(b). A political subdivision is defined as “any county, city, borough, incorporated town, township, school district, vocational school district, county institution district or municipal or other local authority.” Pa.R.C.P. No.

¹⁶ According to Pa.R.C.P. 1028(e), a party may amend a pleading within twenty days after notice of the order sustaining preliminary objections. Plaintiff failed to amend, and more than twenty days have passed.

76. A police department is not a political subdivision, but rather a sub-unit thereof. *Monastra v. Del. County Sheriff's Office*, 49 A.3d 556, 558 (Pa. Cmwlth. 2012) (dismissing all claims against a police department because it was not a proper party) (citing *Johnson v. City of Erie*, 834 F.Supp. 873, 878-79 (W.D.Pa. 1993)). As the Department is not a political subdivision, it is not a proper party and all claims against it must be dismissed.¹⁷ See *Monastra*, 49 A.3d at 558.

2. Moving Defendants are immune under the Tort Claims Act.

The Pennsylvania Political Subdivision Tort Claims Act (“PSTCA”), 42 Pa.C.S. § 8541, et. seq., expressly limits the types of suits that can be brought against a political subdivision and its employees. None of the state-law claims against Moving Defendants fall into the accepted categories of claims, and therefore they must be dismissed.

The claims that Plaintiff purports to bring against the Department and Officer Heist,¹⁸ including Defamation (Count I), Fraud (Count II), Publicity to a Private Matter (Count III), Negligent Infliction of Emotional Distress (Count IV), Intentional Infliction of Emotional Distress (Count V), Negligence (Count VI), Negligence Per Se (Count VII), Gross Negligence (Count VIII), Tortious Interference with Contractual Obligation (Count IX¹⁹), and Copyright and Trademark Infringement (Count XIII), all must be dismissed under the PSTCA.

Local agencies are generally immune from tort liability under the PSTCA, which states:

Except as otherwise provided in this subchapter, no local agency shall be liable for any damages on account of any injury to a person or property caused by any act of the local agency or an employee thereof or any other person.
See 42 Pa.C.S. § 8542.

¹⁷ Out of an abundance of caution, the remainder of the arguments in this brief will assume without admitting that Plaintiff's claims against the Department are asserted against the Township and all arguments asserted by the Department are also asserted as if made on behalf of the Township.

¹⁸ Officer Heist is explicitly named as a defendant in only three claims – Count VII (Negligence Per Se), Count VIII (Gross Negligence), and Count X (§ 1983). Out of an abundance of caution, Moving Defendants incorporate their arguments as if, without admitting, that Plaintiff intends to name Officer Heist in all claims against the Department.

¹⁹ Incorrectly labelled as Count “VIV.”

The broad scope of immunity extends to willful, malicious, and intentional misconduct of a municipal entity. *Ackler v. Spangler*, 500 A.2d 206 (Pa.Cmwlth. 1985); *see also Smith v. City of Chester*, 851 F.Supp. 656 (E.D.Pa. 1994). The PSTCA waives immunity *only with regard to negligent acts* that fall within the nine (9) exceptions. *Lory v. City of Philadelphia*, 674 A.2d 673, 675 (Pa. 1996), cert. denied, 519 U.S. 870 (1996). A municipal employee is immune to the same extent as the agency, so long as the act was not committed willfully and outside the course and scope of employment. *Sanford v. Stiles*, 456 F.3d 298, 315 (3d Cir. 2006).

To prevail under the PSTCA, Plaintiff must prove (1) the cause of action is one for which recovery may be had at common law or by statute; (2) the cause of action falls within one of nine²⁰ enumerated exceptions to immunity; and (3) the injuries were caused by the “negligent acts” of the municipality. 42 Pa.C.S. § 8542. The Pennsylvania Supreme Court has made it clear that the exceptions to governmental immunity in § 8542(b) must be narrowly construed in accordance with the legislature’s intent to shield local agencies from tort liability. *Mascaro v. Youth Study Center*, 523 A.2d 1118 (Pa. 1987). State law claims under the PSTCA may be dismissed on a Motion to Dismiss. *See Burdsall v. West Whiteland Twp.*, 2019 U.S. Dist. LEXIS 88662, at *10 (E.D.Pa., May 28, 2019).

Plaintiff claims, generally, that the Department was negligent (Count VI), grossly negligent (Count VIII), negligent per se (Count VII)²¹, and negligently inflicted emotional distress (Count IV) by publishing information about her June 21, 2022 arrest and criminal charges. These claims do not fall within any of the nine (9) exceptions. The remaining tort claims assert intentional

²⁰ The nine exceptions include: (1) vehicle liability; (2) care, custody, and control of personal property; (3) real property; (4) trees, traffic control devices and street lighting; (5) utility service facilities; (6) streets; (7) sidewalks; (8) care, custody, and control of animals; and (9) sexual abuse. 42 Pa.C.S. § 8542(b).

²¹ Although only Officer Heist was named in this Count, to the extent it is raised against the Department, it is addressed here.

conduct for which immunity applies. *See, e.g.*, Counts I (Defamation)²², II (Fraud)²³, III (publicity of a private matter)²⁴, V (Intentional Infliction of Emotional Distress)²⁵, IX (Tortious Interference)²⁶, and XIII (Copyright and Trademark Infringement).²⁷ *Ackler v. Spangler*, 500 A.2d 206, 207 (Pa.Cmwlth. 1985). Accordingly, the Department is immune from suit for all state law claims raised by Plaintiff and, accordingly, they should be dismissed, with prejudice.

Officer Heist also has immunity under the PSTCA. Both counts VII (Negligence Per Se) and VIII (Gross Negligence) against her sound in negligence for allegedly releasing information about Plaintiff. The claims should be dismissed because Officer Heist is immune under the PSTCA for negligence claims in the course of her employment to the same extent as her municipal employer. *Sanford v. Stiles*, 456 F.3d 298, 315 (3d Cir. 2006); *see also* 42 Pa.C.S. § 8545.

Even if Plaintiff alleged the remaining state law tort claims against Officer Heist (which she does not), Officer Heist would be immune from suit because the allegations do not constitute willful misconduct. *Malia v. Monchak*, 543 A.2d 184, 188-189 (Pa.Cmwlth.Ct. 1988). To the contrary, all of Officer Heist's actions were within the scope of her employment as a police officer and do not constitute actual malice or willful misconduct. *Petula v. Mellody*, 631 A.2d 762, 766 (Pa.Cmmwlth.Ct. 1992) (for the abrogation of immunity for public employees under 42 Pa.C.S.A. § 8550 to apply, the employee must have acted with actual malice or willful misconduct).

²² *Thompson v. Wagner*, 631 F.Supp.2d 664, 688 (W.D.Pa. 2008) (a municipality is immune from suit for defamation under the PSTCA); *Alston v. PW-Philadelphia Weekly*, 980 A.2d 215, 219 (Pa.Cmwlth.. 2008) (same).

²³ *Devore v. City of Philadelphia*, 2005 U.S. Dist. LEXIS 3438, at * 16-17 (E.D.Pa. 2005).

²⁴ *Flanagan v. Borough of Laflin*, 2014 U.S. Dist. LEXIS 42505 (M.D.Pa., Mar. 2014) (municipality is immune from claim for publicity given to private life under PSTCA).

²⁵ *Travis v. Deshiel*, 832 F. Supp. 2d 449, 454 (E.D. Pa. 2011) (dismissing plaintiff's intentional infliction of emotional distress because it does "not fit within any of the [PSTCA's] exceptions").

²⁶ *Roehrig v. Twp. Of Cass*, 2015 Pa.Commwlth.Unpub.LEXIS 622 (Pa.Cmwlth.Ct., Aug. 18, 2015) (dismissing plaintiff's tortious interference with contractual relations claim because it is an intentional tort for which the municipal defendant is immune under the PSTCA).

²⁷ *First Keystone Fed. Sav. Bank v. First Keystone Mortg.*, 923 F.Supp. 693, 700-701 (E.D.Pa. 1996); *Donner v. Tams-Witmark Music Library, Inc.*, 480 F.Supp. 1229, 1233 (E.D.Pa. 1979) (holding that copyright and trademark infringement are torts). To the extent that Copyright or Trademark Infringement can be asserted for unintentional (i.e. negligent) conduct, immunity still applies as the claim does not fall within any exception to immunity.

3. *The Section 1983 Claim Fails*

To maintain a § 1983 claim, Plaintiff must establish (1) the alleged conduct was committed by a person acting under color of state law; and (2) the conduct deprived her of rights, privileges or immunities secured by the Constitution or federal law. *Hicks v. Feeney*, 77 F.2d 375, 377 (3d Cir. 1985) (§ 1983 is not a source of substantive rights; it only provides a “method for vindicating federal rights elsewhere conferred.”). Because § 1983 does not provide a “right to be free from injury wherever the State may be characterized as the tortfeasor,” Plaintiff must show a deprivation of a federally protected right. *Paul v. Davis*, 424 U.S. 693, 701 (1976).

Plaintiff alleges that she was deprived of a purported “right to privacy...not to be defamed, and the constitutional right to be treated lawfully by the police.” Plaintiff’s claim of a right to be “treated lawfully by the police” is so vague and undefined that Moving Defendants cannot adequately articulate a response and therefore should be dismissed. *See Blessing Auto Repair, Inc. v. Pennsylvania State Police*, 2021 U.S. Dist. LEXIS 130849 (E.D.Pa., July 14, 2021) (dismissing § 1983 claim for failing to allege a violation because “a successful § 1983 claim must identify ‘the precise constitutional violation with which [the defendant] is charged.’”)

To the extent that Plaintiff claims that she has a protected right not to be defamed, the Supreme Court has held that an individual cannot claim a constitutionally protected interest in her reputation and, accordingly, allegations of defamation are insufficient to form a Section 1983 claim. *See, Siegert v. Gilley*, 500 U.S. 226, 233 (1991); *Paul v. Davis*, 424 U.S. at 701.

Defamation is only actionable if it involves a change or extinguishment of a right guaranteed by state law or protected by the Constitution. *Clark v. Township of Falls*, 890 F.2d 611, 619 (3d Cir. 1989). Consequently, even if defamation would “seriously impair [Plaintiff’s]

future employment opportunities,” it is not a federal claim. *Caristo v. Blairsville-Saltsburg Sch. Dist.*, 370 F.Supp.3d 554, 567 (W.D.Pa., 2019) (citing *Paul v. Davis*, 424 U.S. at 701).

Similarly, Plaintiff has not identified a violation of a right to privacy. The federal protection for a right to privacy is extremely limited and addresses the government’s ability to regulate private conduct, not any right to be free from the tort of invasion of privacy. *See Paul v. Davis*, 424 U.S. at 713 (government power to regulate conduct in the areas of marriage, procreation, contraception, family relationships, and child rearing are limited by the so-called “right to privacy”); *see also Stanley v. George*, 394 U.S. 557 (1969) (concerning regulation of a person’s private activities). There is also no right of privacy in criminal conduct or arrest records. *Nunez v. Pachman*, 578 F.3d 228, 231-232 (3d Cir. 2009) (the right to privacy only protects “highly personal matters” representing “the most intimate aspects of human affairs”). Criminal records, including police reports, are “inherently public – not private – documents and thus beyond the purview” of Constitutional protection. *Id.* at 232 (citing *Nilson v. Layton City*, 45 F.3d 369, 372 (10th Cir. 1995) (“Criminal activity is...not protected by the right to privacy”).

Therefore, because Plaintiff has failed to allege a violation of a federally protected right, her § 1983 claim fails and must be dismissed.

Additionally, although Plaintiff purports to bring a § 1983 claim against Officer Heist, she fails to allege any action taken by Officer Heist that violated her rights. A civil rights complaint must allege facts identifying “the conduct, time, place, and persons responsible.” *Burley v. Hilton*, 282 A.3d 395 (Cmwlth. Ct. 2022) (citing *Evancho v. Fisher*, 423 F.3d 347, 353 (3d. Cir. 2005)). A plaintiff must allege the personal involvement of each defendant to state a § 1983 claim. *Rode v. Dellarciprete*, 845 F.2d 1195, 1207 (3d. Cir. 1988). Plaintiff has failed to allege any personal involvement in the publishing of the alleged information, so the claim fails.

a. The § 1983 claim against the Department fails.

“[A] municipality cannot be held liable under § 1983 on a *respondent superior* theory.” *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 691 (1978). To state a claim against a municipality under 42 U.S.C. § 1983, the governing body itself must subject a person to a deprivation of rights or “cause” a person to be subjected to such a deprivation of rights. *Id.*, at 658. A municipality can be liable in civil rights claims only when a constitutional violation results from an official policy or custom. *Id.* at 691-94. Additionally, a *Monell* claim may be stated where an official with policymaking authority violates federal law in a manner that causes a constitutional deprivation. *Natale v. Camden Cty. Corr. Facility*, 318 F.3d 575, 584 (3d Cir. 2003). Because Plaintiff fails to allege that any policy, custom, or practice – or official act of a policy-maker – caused the alleged violation, the § 1983 claim against the Department must be dismissed.

b. Officer Heist is entitled to Qualified Immunity.

“The doctrine of qualified immunity protects government officials ‘from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Pearson v. Callahan*, 555 U.S. 223, 231 (2009). Qualified immunity protects “all but the plainly incompetent or those who knowingly violate the law.” *Ashcroft v. al-Kidd*, 131 S.Ct. 2074, 2085 (2011). In resolving claims of qualified immunity, a court must decide: 1) whether the facts make out a violation of a constitutional right, and 2) whether that right was clearly established at the time of the defendant’s misconduct. *Pearson*, 555 U.S. at 232. If the law does not put the state actor on notice that his or her conduct would be clearly unlawful, qualified immunity applies. *Bayer v. Monroe County Children and Youth Serv.*, 577 F.3d 186, 193 (3d Cir. 2009). Because there is no

violation of a constitutional right, nor is it clearly established that her acts would violate Plaintiff's rights, Officer Heist is entitled to qualified immunity.

4. The CrimeWatch Post is Not Defamatory

Plaintiff fails to allege any facts that the CrimeWatch post is false, which is fatal to her defamation claim. *See* 42 Pa.C.S. § 8343(a); *see also Smith v. School Dist. of Phila.*, 112 F.Supp.2d 417 (E.D.Pa., 2000) (outlining elements of defamation claim in Pennsylvania). The post is similar to a police-blotter, merely outlining the fact of the arrest as reported by the complainant and the charges filed. The Department was also privileged to post about Plaintiff's arrest. Police officers, in the performance of their official duties, are conditionally privileged to make statements concerning crimes. *Trippett v. Pennsylvania*, 2017 U.S.Dist.LEXIS 162489 at *7 (E.D.Pa., Sept. 29, 2017); 42 Pa.C.S.A. § 8343(a)(7). The Restatement (Second) of Torts Section 611 recognizes that reports of official actions, such as an arrest, are conditionally privileged. *See* Restatement 2nd Torts § 611, at comment (h.).

C. Plaintiff Should be Barred from Future Filings without Leave of Court

As is evident from the myriad filings in the Montco Matter and in the brief existence of the instant matter (inclusive of her direct communications with the Court), Plaintiff has a history of vexatious conduct, including filing spurious and repetitive motions and communications, which substantially burden the litigants and the Court. Indeed, the very filing of this matter in this Court is repetitive and vexatious, as it has already been raised and resolved in state court. Moving Defendants therefore offers that is a waste of judicial resources to permit Plaintiff unfettered leave to file with this Court and request that Plaintiff be barred from commencement of further litigation against such Defendants without leave of Court. *See Gage v. Wells Fargo Bank, N.A.*, 555 Fed. App'x 148, 152 (3d Cir. 2014) (a district court "may issue an injunction

under the All Writs Act, 28 U.S.C. § 1651(a), to require litigants who have engaged in abusive, groundless, and vexatious litigation to obtain approval of court before filing further complaints.”)

VI. CONCLUSION

For the reasons set forth herein, Moving Defendants respectfully requests that This Honorable Court grant their Motion to Dismiss Plaintiff’s Amended Complaint and enter an Order in the proposed form of Order.

MACMAIN LEINHAUSER PC

Dated: March 23, 2023

By: /s/ Brian C. Conley
David J. MacMain
Brian C. Conley
Attorney I.D. Nos. 59320 / 311372
433 W. Market Street, Suite 200
West Chester, PA 19382
*Attorneys for Defendants Lower Moreland
Township Police Department and Officer
Kelly Heist*

EXHIBIT 1

Nadia Mary Metterka: 110 E. Broward Blvd. Suite 1700
Fort Lauderdale, FL 33301

22-16003

Lewis Merland Twp. Police: 640 Red Lion Road NO. #1 Huntingdon Valley PA 19006
Kelly E. Heist, 640 Red Lion Road, #1, Huntingdon Valley PA 19006
Croogle: 2710 Gateway Oaks Drive, Suite 150N, Sacramento CA 95833
Abington Memorial Hospital: 1200 Old York Road, Abington PA 19001
Capital Blue: 2500 Elmerton Avenue, Harrisburg, PA 17110-9702

NOTICE TO DEFEND-CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
MONTGOMERY BAR ASSOCIATION
100 West Airy Street (REAR)
NORRISTOWN, PA 19401
(610) 279-9660, EXTENSION 201

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

Nadia Mary Metroka
(Pro Se)

Civil Court
Jury Trial Demanded

Plaintiff,

Lower Moreland Township Police Department,
Kelly E. Heist, individually, and as officer/agent for
Lower Moreland Township Police Department,
Google,
Abington Memorial Hospital, Capital Blue,

Montgomery Co Prothonotary
AUG 19 '22 PM 2:43

22-16003

Defendants.

COMPLAINT

Plaintiff, Nadia Mary Metroka (hereinafter "Plaintiff") files this Complaint against Defendants, the Lower Moreland Township Police (hereinafter "Police"), Google Search Engine (hereinafter "Google"), Abington Memorial Hospital (hereinafter "Hospital"), Capital Blue (hereinafter "Health Insurance Company") and provides the following:

Jurisdiction and Venue

1. This Court has jurisdiction over Police because the Police are located in Montgomery County, Pennsylvania. Moreover, the incident occurred/occurring in Montgomery County, Pennsylvania.
2. This Court has jurisdiction over Officer Kelly E. Heist because she is an officer/agent for Police and resides in Montgomery County, Pennsylvania.
3. This Court has jurisdiction over Google because Google hosted/hosting the subject content published by Police and Google has ongoing and continuous business contact with those residing in Montgomery County, Pennsylvania.

4. This Court has jurisdiction over Hospital because Hospital's principal place of business is Montgomery County, Pennsylvania and Hospital has ongoing and continuous contact with those residing in Montgomery County, Pennsylvania. Moreover, the failure to provide proper care occurred in Montgomery County, Pennsylvania.

5. This Court has jurisdiction over Health Insurance Company because Health Insurance Company's has ongoing and continuous business contact with those residing in Montgomery County, Pennsylvania and the incident giving rise to this Complaint occurred/is occurring in Montgomery County, Pennsylvania.

6. Venue is appropriate in the Court of Common Pleas of Montgomery County because the transactions and occurrences giving rise to Plaintiff's Complaint took place in Montgomery County, Pennsylvania. Further the damages sought are more than the jurisdictional requirement for this Court.

Statement of Relevant Facts

7. Plaintiff is the eldest daughter and was raised by grandparents and parents to care for her elders. Plaintiff is deeply religious.¹ Plaintiff and her parents are deeply connected. Plaintiff's occupation is lawyer licensed to practice in the State of Florida. Plaintiff's public and online reputation impact Plaintiff's work. In addition to her emotional and mental health.

8. In September/October, Plaintiff's mother woke up one day with a sudden and severe inability to swallow.

9. Plaintiff's mother was admitted to the hospital.

10. Upon learning of the hospitalization, Plaintiff travelled up north from her permanent

¹ Plaintiff's religious beliefs include that the 10 Commandments have a literal, metaphorical, and spiritual meaning. For example, the first commandment "Thou shall not kill" has a literal, a metaphorical, and a spiritual meaning-a person can kill another in ways that go beyond simply killing their person. That has happened here.

residence located in Florida and has been living at parents' house helping since that time (with the exception of trips back and forth for work).

11. Upon mother's admission to the Hospital, the Hospital informed Health Insurance Company that it was medically necessary for Plaintiff's mother to stay in the hospital as inpatient.

12. Despite the Hospital's determination that inpatient care was medically necessary, the Health Insurance Company refused to pay for the inpatient hospital care that the doctors requested and deemed medically necessary. (Exhibit A). ²

13. This resulted in seeds of doubt and mother not receiving proper care.

14. Ultimately, mother was discharged from the hospital with a feeding tube in place.

15. The hospital failed to provide adequate instruction and care regarding the feeding tube.

16. The failure to provide adequate instruction and follow-up care resulted in mother's health declining.

17. On several occasions, Plaintiff called 911 to help parents in attempting to get adequate care for mother.

18. The police and fire rescue failed to take any action to help plaintiff and parents. Instead, the Police and fire rescue, on several occasions, failed to see the severity of the situation, and presumably perceived Plaintiff to be overreacting. This is discriminatory.

19. Mother ended up back in the hospital and has been in nursing home care since the second discharge from the hospital.

20. As one would reasonably believe the confusion and distress from Health Insurance

² This is beyond gross negligence and/or intentional and needs to be addressed as soon as possible.

Company's erroneous denial of coverage has created additional, unnecessary, and completely avoidable (but for the Health Insurance Company's refusal to provide coverage) stressors in Plaintiff's family. On June 21, 2022, Plaintiff and her father had a disagreement that resulted in father telephoning the Police.

21. The police were unable or unwilling to aid the situation and arrested Plaintiff. (See Police report).

22. Despite lacking in legal grounds, the police charged Plaintiff with simple assault, harassment, and criminal mischief. This situation paled in comparison to what the Police did next.

23. On July 21, 2022, approximately one (1) month after arrest, a website called "Montgomery.CrimeWatchPa.com" published false and defamatory information about Plaintiff regarding June 21, 2022 arrest. (See Exhibit C- "ATTEMPT BY MENACE and 7 additional charges" seen as the first article when googling Plaintiff's name).

24. Plaintiff's image is copyright protected. Plaintiff's name is pending trademark approval/trademarked. Plaintiff has not provided permission to any of the defendants to use, distribute, make derivatives, copy, alter, or benefit from her copyrighted image and trademark pending approval/trademarked name.

The Rationale for Bringing this Lawsuit

25. The Police exist to protect and serve. They do not exist to spread sinister rumors about the families in our communities. To have a healthy functioning society we must be able to trust our Police force. It is difficult to trust when misinformation, specifically in this case rather sinister misinformation, is provided via our Police force.

26. When people in positions of public trust, paid by tax dollars to protect us,

violate public trust, it damages society. It is far worse than a civilian violating the public trust because when the Police do it, it undermines our justice system resulting in insecurity, uncertainty, and more crime in society. We must be vigilant about public trust in the Police force by making sure the Police understand that trustworthiness in their actions is required.

27. Hospitals exist to provide adequate medical care for ailing patients. Hospital placed the feeding tube in mother thereby creating a dangerous condition and thereafter failed to provide the proper safety i.e. follow-up care. We need hospitals to be able to provide follow-up and on-going care to all patients discharged with surgically invasive procedures and devices. Our loved ones matter.

28. Google is a business that provides information to the public. There is a reasonable expectation of truth in the matters supported by the Google platform. Google has the capability to weed out false and damaging information. This either was not done or was done recklessly and with little concern for the truth and/or for the fact that this is copyrighted and/or trademark pending approval/trademarked material to which they have no permissions.

29. Health Insurance Companies exist to provide medical coverage to insureds in need of coverage. Health Insurance Companies do not exist to steamroll medical doctors' opinions as to "medically necessary". When companies that are paid by customers to provide health coverage fail to do so, it results in major distresses in society. Insurance companies are supposed to soothe worry associated with medically necessary treatments. We need to make sure that everyone is on the same page with this.

30. Family is off-limits.

31. Our justice system is designed in a way that allows for one person to make

positive change in society. Plaintiff will not be tolerating the above referenced issues in her world and will take every legal measure necessary to make sure the above issues are resolved.

COUNT 1-Defamation-Defendant, Police

32. In order to show defamation, a Plaintiff must prove the following elements: **1) the defamatory character of the communication; 2) its publication by the defendant; 3) its application to the plaintiff; 4) an understanding by the reader or listener of its defamatory meaning; 5) an understanding by the reader or listener of an intent by the defendant that the statement refer to the plaintiff; 6) special harm resulting to the plaintiff from its publication; 7) abuse of a conditionally privileged occasion.** 42 Pa. Cons. Stat. Ann. § 8343(a)(1)-(7)(1998).

1) The defamatory character of the communication;

33. The Police posted an article on the worldwide web stating falsely and recklessly that Plaintiff committed several morally repugnant crimes. Stating that a person committed a crime is considered defamation per se. The element to show special damages is not required.

2) its publication by the defendant:

34. The Police published these defamatory statements to their Lower Moreland Township Police Department's website titled: "Montgomery.CrimeWatchPa.com".

3) Its application to Plaintiff and 4) An understanding by the reader or listener of its defamatory meaning;

35. The subject false and defamatory statements may be one of the clearest examples of defamation that we will see in our lives. It clearly references Plaintiff. It names Plaintiff specifically in the article. Plaintiff is the only Nadia Metroka/Nadia Mary Metroka in the world. There is nothing about the article that gives the impression that the statements are false or unreliable-it is written as if the Police were witness to the alleged conduct. There is nothing in

said article that would give a reasonable person reason to doubt the statements as being true. It is not in reference to anyone else and all that view it would reasonably believe based on the Police's false and defamatory representation that Plaintiff had committed the subject morally repugnant crimes.

5) An understanding by the reader or listener of an intent by the defendant that the statement refer to the plaintiff;

36. Again, Plaintiff is named and identified via picture in the subject article published via the Police.

6) special harm resulting to the plaintiff from its publication;

37. As previously stated, due to the fact that the statements fall under the umbrella of defamation per se there is no need to prove special damages because they are assumed.

7) Abuse of a conditionally privileged occasion.

37. The Police are abusing the conditional privilege of having confidential information in their custody and control from the arresting of a person. Domestic matters are locked and confidential by the Court system because of the highly sensitive nature associated with same. The Police violated this in a way that is similar to a doctor broadcasting HIPAA protected health information to the public. Perhaps this situation is worse because of the morally repugnant nature of the statements.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count II-Fraud-Defendant, Police

38. To establish a cause of action for fraud, a party must plead the following

elements: There must be: **1) a representation; 2) which is material to the transaction at hand; 3) made falsely, with knowledge of its falsity or with recklessness as to whether it is true or false; 4) with the intent of misleading another into relying on it; 5) justifiable reliance on the misrepresentation; and 6) injury resulting and proximately caused by the reliance.**” *Freedom Medical Inc. v. Gillespie*, 2007 WL 2480056, at *20 (E.D. Pa. 2007) (citing *Gibbs v. Ernst*, 647 A.2d 882 (Pa. 1994)). As such, the heightened pleading standard under Rule 9(b) applies, to which the Court now turns.⁴ See *Guaranty Towers, LLC v. Cellco Partnership*, Civil No. 1:CV-07-0554, 2007 WL 2617651, at *5 (M.D. Pa. Sept. 6, 2007) (applying Rule 9(b) to an intentional misrepresentation claim).

1) representation;

39. The article published to “*Montgomery.CrimeWatchPa.com*” on July 21, 2022 represented falsely that Plaintiff committed several morally repugnant crimes.

2) Which is material to the transaction at hand;

40. The Police made this representation after arresting Plaintiff and while a criminal matter was open and pending.

3) Made falsely, with knowledge of its falsity or with recklessness as to whether it is true or false;

41. These statements were made either knowing that same were false. Or in the alternative were made with gross recklessness as to the truth of the matter.

4) With the intent of misleading another into relying on it;

42. Upon information and belief these statements were made for the purpose of misleading people into falsely believing that Plaintiff had committed several morally repugnant crimes.

5) Justifiable reliance on the misrepresentation;

43. Upon information and belief, these statements were made by the Lower Moreland Township Police Department, an entity tasked with managing crime. It is reasonable to believe that a person would rely on this misrepresentation in perceiving Plaintiff's moral character and turpitude.

And 6) injury resulting and proximately caused by the reliance."

44. It is reasonably foreseeable that the Police starting a sinister rumor about Plaintiff and publishing it on their website would result in Plaintiff experiencing emotional, physical, mental and spiritual distress.

45. But for the subject Police conduct Plaintiff would not be experiencing emotional, physical, mental and spiritual distress.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just.

Count III-Publicity to a Private Matter-Defendant, Police and Google

46. Pennsylvania courts have also adopted section 652D of the Restatement (Second) of Torts that states: One who gives publicity to a matter concerning the private life of another is subject to liability to the other for invasion of his privacy- if the matter published is of a kind that a) would be highly offensive to a reasonable person, and (b) is not of legitimate concern to the public. Harris, 483 A.2d at 1384. To state a cause of action, the plaintiff must prove that the defendant (1) publicized (2) private facts 3) that would be highly offensive to a reasonable person, and 4) are not of legitimate concern to

the public. Id.

47. The arrest on June 21, 2022 arose from a disagreement between father and daughter at private family residence. This is a domestic case. Domestic Cases are considered private and confidential in the court system due to the highly sensitive, prejudicial, and negative connotations often implied from association with same.

48. The Police published a false story on their “Crime Watchers” website in which they state that Plaintiff committed morally repugnant crimes.

49. There is absolutely no decent reason or rational for posting falsely that a person committed morally repugnant crimes.

50. A reasonable person would find the Police Officer’s conduct to be unreasonable and negligent.

51. The defamatory article was posted on the worldwide web for all to view any time anyone googles Plaintiff’s name.

52. Plaintiff is a solo practitioner and relies on the internet for business interactions, life interactions, and family interactions. No reasonable person would not be harmed by such horrid statements. It is Plaintiff’s belief that the nature of the statements and the fact that the statements are false, makes this situation more severe and may even warrant punitive damages. For that same reason it is understood that this Court may find this cause of action inapplicable to the facts. It should be noted that the entire situation is private. The falsity of the statements regarding a private matter does not appear to matter with this statute.

53. The publicity element requires that the matter be communicated “to the public at large, or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge.” *Kryeski v. Schott Glass Tech. Inc.*, 626 A.2d 595, 601

(Pa. Super. Ct. 1993)(quoting Restatement (Second) of Torts § 625E (1976)); Harris, 483 A.2d at 1384.

54. The matter was placed on the worldwide web.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count IV-Negligent Infliction of Emotional Distress

56. In order to state a cause of action for Negligent Infliction of Emotional Distress, a plaintiff must prove that **1) he or she was nearby when the accident happened; 2) His or her emotional distress is a result of observing (hearing, feeling, and/or seeing) the accident, And lastly, that the Plaintiff is closely related to the injured person.**

1) he or she was nearby when the accident happened

57. In this case, Plaintiff fulfills the first element by the fact that the false statements were made about her personally regarding her moral character and turpitude.

2) His or her emotional distress is a result of observing (hearing, feeling, and/or seeing) the accident

58. Plaintiff fulfills the second element because she is feeling the effects of the outrageous and extreme conduct of Police posting false and damaging information about her online. The information posted online is sinister and malicious.

Plaintiff is closely related to the injured person

59. Plaintiff fulfills the last element because the information is about Plaintiff personally and Plaintiff is related to herself.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count V- Intentional Infliction of Emotional Distress

60. Under Pennsylvania law, a Plaintiff pursuing a cause of action for Intentional Infliction of Emotional Distress must prove that the conduct was **1) intentional, extreme, and outrageous; 2) the conduct caused emotional distress; and 3) that distress was severe.**

1) intentional, extreme, and outrageous;

61. In this case, the publishing of false and damaging information about Plaintiff in the subject article on the worldwide web was/is intentional, extreme, and outrageous. The law recognizes that these types of defamatory remarks are so heinous and repugnant to society that they are considered defamation per se and come with a presumption of damage. In other words, it is not required to prove special damages.

2) the conduct caused emotional distress;

62. The subject conduct is outrageous and extreme. Plaintiff is deeply connected and close to her parents. The Police's conduct has caused Plaintiff to experience mental, emotional, physical, and spiritual distress. It is foreseeable that this type of conduct would cause one to experience extreme and severe distress. But for the Police's conduct, Plaintiff would not be experiencing mental, emotional, physical, and spiritual distress.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress

damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count VI-Negligence-Defendant, Police

63. In order to prove a cause of action for negligence a party must show that the defendant had a duty, that duty was breached, and the damages are a proximate and foreseeable result of said negligence.

64. Duty-The Police have a duty to protect and serve society. The Police have a duty to maintain the public trust by not engaging in sinister and malicious conduct.

65. The Police breached this duty by publishing false and damaging information about Plaintiff on the worldwide web for all to view.

66. It is reasonably foreseeable that the Police posting false and damaging information about a person on the worldwide web stating that a person has committed heinous crimes would cause emotional, mental, physical, and spiritual distress. As well as additional damages from the public perception of the subject false and damaging information.

67. But for Police publishing the subject false and damaging information Plaintiff would not be experiencing emotional, mental, physical, and spiritual distress.

WHEREFORE, Plaintiff demands monetary compensation for her damages in this case.

Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count VII- Negligence Per Se- Defendant Kelly Heist³, individually and on behalf of Police

Violation of 18 Pa. C.S.A. Statute 9106-Negligence Per Se

68. Pursuant to 18 Pa. C.S.A. Statute 9106, the Police are not permitted to release investigative information to the public.

69. Kelly Heist is the officer that wrote the Probable Cause Affidavit and had custody and control of the information collected from arrest. She had/has a duty to make sure that information collected from arrest is properly maintained and not released to the public.

70. Kelly Heist breached that duty upon allowing the release of confidential information.

71. It is reasonably foreseeable that the disclosure of confidential information and resulting defamatory information would cause Plaintiff severe emotional, mental, physical, and spiritual distress.

72. But for Kelly Heist's failure to properly maintain records Plaintiff would not be experiencing emotional, mental, physical, and spiritual distress.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

³ It should be noted that during the arraignment for the subject arrest Officer Heist said hello to Plaintiff in a sarcastic tone (court proceedings are very serious matters, these are people's lives). She then proceeded to attempt to engage in conversation with Plaintiff (who is the defendant in this criminal matter, criminal matters can result in important constitutional rights being restricted), and then yelled at Plaintiff in open Court (while the magistrate and defendant were solving problems) demanding to know if Plaintiff was recording her. It felt unprofessional.

Count VII- Gross Negligence as to all Defendants

73. To prove a claim for Gross Negligence a Plaintiff must allege that the conduct was so reckless and extreme that it showed a complete disregard for the life of a human. That has happened here.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count VIII-Tortious Interference of Contractual Obligation as to Defendants, Police and Google

74. In proving a cause of action for Tortious Interference of Contractual Obligation, a Plaintiff must allege the following seven factors listed in Section 767 of the Restatement (Second) of Torts used to determine improper conduct of the defendant: 1. The nature of the defendant's conduct. 2. Defendant's motive. 3. The interests of plaintiff with which defendant's conduct interferes. 4. The interests which defendant seeks to advance. 5. The social interests in balancing defendant's freedom to act against the contractual interests of plaintiff. 6. The "proximity or remoteness" of defendant's conduct relative to the interference claimed by plaintiff. 7. The relations between plaintiff and defendant.

1. The nature of the defendant's conduct.

75. The Police published false and damaging information about Plaintiff on the worldwide web. Google published copyrighted material without permission re picture of Plaintiff.

2. Defendant's motive.

76. The motive is likely discriminatory.

3. The interests of plaintiff with which defendant's conduct interferes.

77. The subject conduct is interfering with Plaintiff's contract with her grandparents and parents. It is also interfering with Plaintiff's contract with work, and her contract with God. In addition, it puts Plaintiff's life in danger because there are people on the internet that seek to take matters into their own hands when viewing something disturbing. People could see that, think that it's true, be repulsed by it, and then organize a group of people together to "jump" the person in the street.⁴

4. The interests which defendant seeks to advance

78. The Police do not have a legal interest in publishing or assisting in publishing sinister, false, and damaging information about a person.

5. The social interests in balancing defendant's freedom to act against the contractual interests of plaintiff.

79. As a society we must be able to trust the Police force. Trusting the Police force is near impossible, if not impossible, when the Police are engaging in sinister and malicious conduct. The world is a terrifying place when we cannot trust the Police. We cannot allow for this type of conduct to become the norm in our police force.

6. The "proximity or remoteness" of defendant's conduct relative to the interference claimed by plaintiff.

80. It is reasonably foreseeable that the Police publishing and/or assisting in publishing sinister, false, and damaging information about Plaintiff on the internet would cause Plaintiff to

⁴ Plaintiff met a young woman in the city (Philadelphia) that was jumped by an organized group of people targeting certain people. She was not robbed. She was jumped. Punched in the face by two people at once and kicked on the ground. Someone had **videotaped it to post the video online**. One of the kids in the video looks to be as young as 8 years old. We cannot deny how dangerous the city has become. The internet creates danger.

experience difficulties with contractual obligations in her life. Including but not limited to: Plaintiff's contract with her grandparents and parents; Plaintiff's contract with society as a lawyer; and Plaintiff's contract with God.

7. The relations between plaintiff and defendant.

81. The Police exist to protect and serve. They do not exist to spread sinister, false, and damaging information about the people they come across in the community in their capacity as police officers.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count VIV-42 U.S.C 1983- Defendants, Police and Kelly Heist, individually and acting as Agent on Behalf of Police

82. One of the applicable statutes to use when pursuing a claim against the Police for unlawful conduct is 42 U.S.C 1983. To prove a 42 U.S.C 1983 action a Plaintiff must prove the following:

1) The conduct complained of was committed by a person acting under the color of State law; and

83. The sinister, false, and damaging information about the Plaintiff was published to the Internet via the Police.

2) The conduct deprived the Plaintiff of a constitutional right.

84. The Police conduct deprived/is depriving Plaintiff of the constitutional right to privacy, the constitutional right to not be defamed, and the constitutional right to be treated lawfully by the Police. The Police may not always be willing and able to assist citizens but at the

very least we must demand as a society that the Police conduct themselves lawfully toward citizens.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count X- Defamation Per Se- Defendant, Google

85. “Consider this excerpt from Petitioner's brief in *New York Times Co. v. Sullivan*, a landmark, 9-0 U.S. Supreme Court decision in favor of the New York Times, establishing the constitutional boundaries of defamation law.

86. Under the doctrine of “libel per se” applied [by the courts] below, a public official is entitled to recover “presumed” and punitive damages for a publication found to be critical of the official conduct of a governmental agency under his general super-vision if a jury thinks the publication “tends” to “injure” him “in his reputation” or to “bring” him “into public contempt” as an official. The publisher has no defense unless he can persuade the jury that the publication is entirely true in all its factual, material particulars. The doctrine not only dispenses with proof of injury by the complaining official, but presumes malice and falsity as well. Such a rule of liability works an abridgment of the freedom of the press.”⁵

87. Defamation and libel laws are such that it does not matter whom or how a person or entity has published defamatory information. Plaintiff is aware that section 30 of the Communications Decency Act gives broad immunity to 3rd Party platforms on the internet.

⁵ This comes directly from the online pamphlet on motions that the State of Pennsylvania provides to parties.

Plaintiff asserts that this statute does not apply to Google because the statute refers specifically to “interactive” sites. Google is not interactive. There is no ability for anyone to refute the defamatory information and because of this Section 30 of the CDA⁶ does not apply here.

88. Google is not any different from that of the yellow pages or the New York Times. In this case, we have essentially the yellow pages or New York Times republishing defamatory information about a person. Google must be held equally liable to that of Police.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count XI- Copyright and Trademark Infringement- Defendants, Google and Police

89. In the alternative, Plaintiff’s image is copyrighted and her name is pending trademark approval/trademarked. Google does not have permission to publish Plaintiff’s image or her name that is pending trademark approval/trademarked . A certified copy of the copyright certificate for Plaintiff’s image is being retrieved and will be provided upon receipt. The use of Plaintiff’s image would be considered a derivative of the other images of Plaintiff and as a result copyright protected. The same applies for Plaintiff’s name.

90. One of the exceptions to Section 30 of the Communications Decency Act is intellectual property law infringement. Google is infringing on Plaintiff’s copyrighted image and her name that is pending trademark approval/trademarked.

⁶ It should be noted that the Hague, the highest court in the world, is permitted to hear issues regarding the Communications Decency Act.

WHEREFORE, Plaintiff demands the maximum fine of \$120,000, damages for emotional distress, and attorney fees for each occurrence. In addition, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just. In addition to an injunction.

Count XII- Negligence-Defendant, Google

91. Google is a business. A reasonable business would not support copyrighted material on their site and also would not support defamatory information on their site.

92. Google has a duty to provide true information to the public and also has a duty to adhere to the laws regarding copyright and trademark infringement.

93. Google breached this duty by failing to make sure the proper protocol was in place to make sure such defamatory information and copyrighted/pending trademark approval/trademarked material is not published.

94. It is reasonably foreseeable that a company republishing copyrighted material and false and defamatory information about a person or entity would result in severe emotional, mental, physical, and spiritual distress.

95. But for Google's failure to properly censor and police their posts, Plaintiff would not be experiencing emotional, mental, physical, and spiritual distress.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just.

Count XII-Negligence-Regarding Abington Memorial Hospital

96. Hospitals have a duty to make sure their patients receive adequate care.

97. In this case, mother was discharged from Hospital with a feeding tube placed in her stomach. Hospital created a dangerous situation and then failed to provide proper safety and follow-up.

98. It is reasonably foreseeable that Hospital's failure to provide proper safety and follow-up care would cause Plaintiff, mother's daughter, severe emotional, mental, physical, and spiritual distress.

99. But for Hospital's failure to provide proper safety and follow-up care Plaintiff would not be experiencing severe emotional, mental, physical, and spiritual distress.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just.

Count XIV- Negligence-Defendant Capital Blue

100. Health Insurance Companies have a duty to provide coverage for medically necessary care.

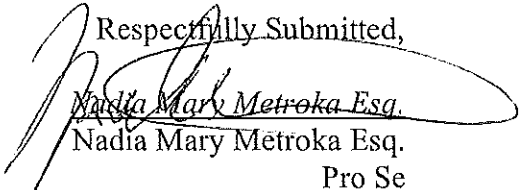
101. Health Insurance Company failed to provide coverage for medically necessary care.

102. It is reasonably foreseeable that Health Insurance Company's failure to provide

medical coverage for medically necessary care would cause Plaintiff, mother's daughter, to experience emotional, mental, physical, and spiritual distress.

103. But for Health Insurance Company's failure to provide medical coverage for medically necessary care Plaintiff would not be experiencing mental, emotional, physical, and spiritual distress.

WHEREFORE, Plaintiff demands a trial by jury and monetary compensation for her damages in this case. Including but not limited to: emotional, mental, physical, and spiritual distress damages. Plaintiff reserves the right to compensatory damages, punitive damages, attorney fees, and any and all other remedies this Court deems proper and just.

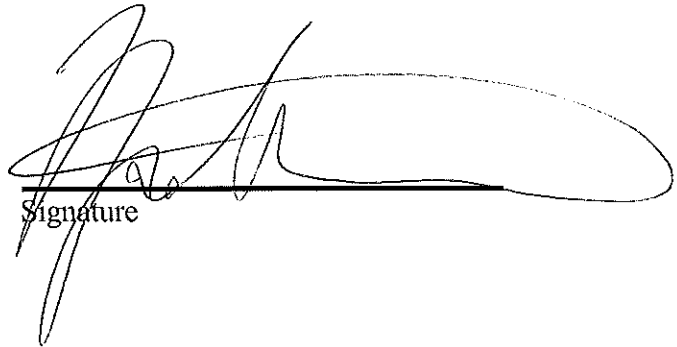
Respectfully Submitted,

Nadia Mary Metroka Esq.
Nadia Mary Metroka Esq.
Pro Se
110 East Broward Boulevard
Suite 1700
Fort Lauderdale, Florida 33301
Telephone: (305) 906-2704

VERIFICATION

I verify that the statements made in this Complaint are true and correct to the best of my knowledge, and belief. I understand that false statements made herein are subject to the penalties of 18 PA. C.S. Subsection 4904, relating to unsworn falsification to authorities.

Date:

8/19/22


Signature

**Capital BLUE** *Exhibit A*

17 - 2

Nancy J Metroka

Date: 09/23/2021

Re: Nancy Metroka
Anticipated Admission Date: 09/21/2021

Member ID:

Dear Nancy Metroka:

Thank you for being a valued member of the Capital BlueCross family of companies. We received your preauthorization request for the following service. After careful review by our medical director, this request has been denied for the reason explained below. If you decide to continue with this service, you will be responsible for paying any costs for this service.

Procedure / Service	Decision	From Date
Acute Inpatient Hospital Stay	Denied	09/21/2021
<p>This determination is based on the following: You went to the hospital because you had trouble swallowing. This could lead to dehydration. A person can stay in the hospital either as an inpatient or for observation. The hospital asked us to cover your time in the hospital as an inpatient stay. We have denied that request. A person with dehydration does not usually need an inpatient stay in the hospital. They may need an inpatient stay if they have been in observation and it is not safe for them to leave the hospital after two days. Your information does not say that it was not safe for you to leave the hospital. An inpatient stay in the hospital is not medically necessary for you at this time. We made this decision using the section of the InterQual 2021 Acute Adult criteria called Dehydration Or Gastroenteritis. We use InterQual as our policy for hospital stays.</p> <p><i>Your health plan contains a list of exclusions which says, in part, that no benefits will be provided for services, supplies, or charges which fail to satisfy Capital BlueCross' medically necessary and appropriate criteria as determined by our medical director.</i></p>		

On 09/23/2021, we notified your provider that we denied the authorization request. If your provider would like to talk about this decision with us, they may call us at 800.471.2242. You may also request a copy of the medical necessity criteria, benefit provisions, or guidelines on which this decision was based.

Harrisburg, PA 17177 | CapitalBlueCross.com

Health and benefit programs issued or administered by Capital BlueCross and/or its subsidiaries, Capital Advantage Insurance Company, Capital Advantage Insurance Company, and Keystone Health Plan. Capital, Independent licensees of the BlueCross BlueShield Association. Communications issued by Capital BlueCross in its capacity as administrator of programs and provider relations for all companies.



2022-16003-0000 8/19/2022 2:30 PM # 13630546
Rcpt#2022-13-00548 Fee:\$290.00 Complaint Civil Action
Exhibit A (Public)
MontCo Prothonotary

Exhibit B - Place Page for Police Report

BLANK



2022-16003-0000 8/19/2022 2:30 PM # 13630547
Rcpt#2022-13-00548 Fee:\$290.00 Complaint Civil Action
Exhibit B (Public)
MontCo Prothonotary



Google



nadia metroka



All Images News Videos Maps Shopping



https://montgomery.crimewatchpa.com

METROKA, NADIA M - ATTEMPT BY MENACE and 7 additional charges

Jul 21, 2022 — The victim stated their daughter, Nadia Metroka, knocked over a glass bowl from the kitchen counter on to the floor and left the house.



The Florida Bar



Top American Law...

Member Profile – Nadia Metroka, Esquire –
Mary Metroka – The Florida Top American Lawyers
Bar

AA

Q nadia metroka



2022-16003-0000 8/19/2022 2:30 PM # 13630573
Rcpt#2022-13-00548 Fee:\$290.00 Complaint Civil Action
Exhibit C (Public)
MontCo Prothonotary

Comp, Exhibit C,
1 of 5



LOWER MORELAND
TOWNSHIP POLICE
DEPARTMENT

lowermorelandpolice.org

Comp. Exhibit C₂
2 of 5

METROKA, NADIA M - (1) SIMPLE ASSAULT - ATTEMPT BY MENACE AND 7 ADDITIONAL CHARGES

JULY 21, 2022

ARREST DETAILS

Arrest Location

On 6/21/2022, officers were dispatched to Walton Road for a physical domestic in progress between the caller and their 36-year-old daughter. Lower Moreland Police have been to this residence many times in 2022 for disputes between the 36-year-old daughter and her parents.

Upon arrival, police observed the caller walking

AA Montgomery.crimewatchpa.com



Upon arrival, police observed the caller walking out from the bushes on the side of the residence. Their physical appearance was disheveled and appeared emotionally shaken up and flustered. The victim stated their daughter, Nadia Metroka, knocked over a glass bowl from the kitchen counter on to the floor and left the house. When Nadia came back, she was extremely irate and appeared mentally unstable, came into the kitchen and knocked everything off the counter on to the floor. Nadia then began to kick everything she had just knocked over and started shoving the victim. They both ended up falling. Nadia stood up, grabbed a music stand and advanced towards the victim. The victim was able to leave out the back door and hide on the side of the residence while calling police. Nadia had also smashed the front passenger window of the victim's truck.

Nadia Metroka was taken into custody for simple assault, criminal mischief, and harassment.

CRIMINAL CHARGES, AND ANY DISCUSSION THEREFORE, ARE MERELY ALLEGATIONS AND ALL DEFENDENTS ARE PRESUMED INNOCENT UNTIL AND UNLESS PROVEN GUILTY.

Arrest Date:

Tuesday, June 21, 2022 - 9:59pm

Reference ID:

2022-09303

Charges:

Comp. Exhibit C₃
3 of 5

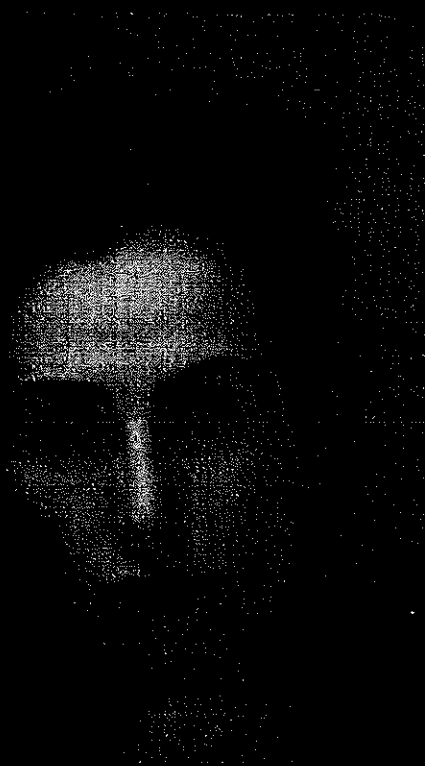
Comp. Exhibit C⁴
4.15

Incident Type:

Source:

OFFENDER DETAILS

Media General Description



Comp Exhibit C
5 of 5

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English



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AA itgomery.crimewatchpa.com



EXHIBIT 2

Case #2022-16003

Case Number	2022-16003
Commencement Date	8/19/2022
Last Filing Date	3/1/2023
Days Open	215
Case Type	Complaint Civil Action
PFA Number	
Caption Plaintiff	METROKA, NADIA MARY
Caption Defendant	LOWER MORELAND TOWNSHIP POLICE DEPARTMENT
Lis Pendens Indicator	No
Status	5 - OPEN/ON APPEAL
Judge	TOLLIVER
Remarks	
Sealed	No
Interpreter Needed	

Plaintiffs

Name	Address	Country	Counsel	Notify	Sequence	Status
METROKA, NADIA MARY	redacted	UNITED STATES		Yes	1	

Defendants

Name	Address	Country	Counsel	Notify	Sequence	Status
LOWER MORELAND TOWNSHIP POLICE DEPARTMENT	redacted	UNITED STATES	MACMAIN, DAVID J CONLEY, BRIAN	Yes	1	
ABINGTON MEMORIAL HOSPITAL	redacted	UNITED STATES	TOMLINSON, A BRYAN	Yes	2	
CAPITAL BLUE	redacted	UNITED STATES		Yes	3	
GOOGLE	redacted	UNITED STATES		Yes	4	
HEIS, KELLY E	redacted	UNITED STATES	MACMAIN, DAVID J CONLEY, BRIAN	Yes	5	

Other Party Types

Type	Name	Address	Country	Counsel	Notify	Sequence
Petitioner	METROKA, NADIA MARY	redacted	UNITED STATES		Yes	1

Docket Entries

Seq.		Filing Date	Docket Type	Docket Text	Sealed	Filing ID
0		8/19/2022	Complaint Civil Action		No	13630545
1	E	8/31/2022	Entry of Appearance	OF A. BRYAN TOMLINSON, ESQUIRE FOR DEFENDANT ABINGTON MEMORIAL HOSPITAL	No	13644310
2	E	8/31/2022	Affidavit/Certificate of Service of	ENTRY OF APPEARANCE ON 08/31/2022 TO PLAINTIFF NADIA MARY METROKA	No	13644332
3	E	8/31/2022	Demand for Jury Trial by	ABINGTON MEMORIAL HOSPITAL	No	13644338

Seq.		Filing Date	Docket Type	Docket Text	Sealed	Filing ID
4	E	8/31/2022	Affidavit/Certificate of Service of	DEMAND FOR JURY TRIAL ON 08/31/2022 TO PLAINTIFF NADIA MARY METROKA	No	13644343
5	E	9/12/2022	Entry of Appearance	OF DAVID MACMAIN FOR LOWER MORELAND TOWNSHIP POLICE DEPARTMENT AND OFFICER KELLY HEIST	No	13656038
6	E	9/12/2022	Entry of Appearance	OF BRIAN CONLEY FOR LOWER MORELAND TOWNSHIP POLICE DEPARTMENT AND OFFICER KELLY HEIST	No	13656051
7	E	9/12/2022	Affidavit/Certificate of Service of	ENTRY OF APPEARANCE ON 09/12/2022 TO NADIA METROKA	No	13656064
8	E	9/12/2022	Entry of Appearance	OF DAVID MACMAIN FOR LOWER MORELAND TOWNSHIP POLICE DEPARTMENT AND OFFICER KELLY HEIST	No	13656067
9	E	9/12/2022	Affidavit/Certificate of Service of	ENTRY OF APPEARANCE ON 09/12/2022 TO NADIA METROKA	No	13656081
10	E	9/21/2022	Preliminary Objections of	KELLY E HEIS; LOWER MORELAND TOWNSHIP POLICE DEPARTMENT WITH SERVICE ON 9/21/2022	No	13668189
11	E	9/21/2022	Notice	NOTICE OF INTENTION OF DEFENDANT ABINGTON MEMORIAL HOSPITAL TO ENTER JUDGMENT OF NON PROS FOR FAILUIRE TO FILE CERTIFICATES OF MERIT	No	13668927
12	E	9/21/2022	Affidavit/Certificate of Service of	NOTICE OF INTENTION TO ENTER JUDGMENT OF NON PROS ON 09/21/2022 TO NADIA MARY METROKA, ESQUIRE	No	13668930
13	E	10/6/2022	Motion	BY NADIA MARY METROKA MOTION TO STRIKE DEFENDANTS' POLICE AND KELLY E. HEIST OBJECTION	No	13686789
14	E	10/6/2022	Motion	BY NADIA MARY METROKA MOTION REQUESTING AN ORDER TO SHOW CAUSE	No	13686802
15	E	10/6/2022	Motion	BY NADIA MARY METROKA MOTION TO PRESERVE THE EVIDENCE	No	13686805
16		10/10/2022	Rule	DATE ON NOVEMBER 7, 2022 KEHS CA	No	13689292
17		10/10/2022	Rule	DATE ON NOVEMBER 7, 2022 KEHS CA	No	13689311
18	E	10/14/2022	Amended Pleading	REQUEST FOR LEAVE TO AMEND	No	13696592
20	E	10/18/2022	Motion	BY NADIA MARY METROKA MOTION REQUESTING AN INJUNCTION	No	13699394
21	E	10/20/2022	Reply	BY KELLY E HEIS; LOWER MORELAND TOWNSHIP POLICE DEPARTMENT TO IN OPPOSITION TO PLAINTIFF'S REQUEST FOR LEAVE TO FILE AMENDED COMPLAINT WITH SERVICE ON 10/20/2022	No	13702564
22	E	10/20/2022	Reply	BY KELLY E HEIS; LOWER MORELAND TOWNSHIP POLICE DEPARTMENT TO RESPONSE IN OPPOSITION TO PLAINTIFF'S REQUEST FOR EMERGENCY INJUNCTION WITH SERVICE ON 10/20/2022	No	13702584
23		10/20/2022	Notice of Scheduling		No	13703298
24	E	10/20/2022	Motion	BY NADIA MARY METROKA RESPONSE AND REQUEST FOR SWORN AFFIDAVIT	No	13703321
25		10/24/2022	Rule	DATE ON NOVEMBER 21, 2022 KEHS, CA	No	13705585
26		10/24/2022	Order - Other	OF 10/24/22 MOORE,SJ TO BE RELISTED BY COURT ADMIN CC RULE 236 NOTICE PROVIDED ON 10/24/2022	No	13705988
27	E	10/24/2022	Reply	BY KELLY E HEIS; LOWER MORELAND TOWNSHIP POLICE DEPARTMENT TO IN OPPOSITION TO PLAINTIFF'S MOTION FOR A SWORN AFFADAVIT WITH SERVICE ON 10/24/2022	No	13706157
28		10/24/2022	Notice of Scheduling		No	13706809
29	E	11/3/2022	Answer/Response	BY DEFENDANT ABINGTON MEMORIAL HOSPITAL TO PLAINTIFF'S RESPONSE TO DEFENDANT'S ASSERTION THAT A LETTER OF INTENT TO SUE IS REQUIRED WITH MEMORANDUM OF LAW	No	13718972

Seq.		Filing Date	Docket Type	Docket Text	Sealed	Filing ID
30	E	11/3/2022	Affidavit/Certificate of Service of	DF RESPONSE TO PL RESPONSE TO DF AMH ASSERTION THAT A LETTER OF INTENT TO SUE IS REQUIRED ON 11/3/2022 TO NADIA MARY METROKA, ESQUIRE AND DAVID J. MACMAIN, ESQUIRE	No	13718993
31		11/3/2022	Order - Other	OF 11/3/22 SMYTH,SJ TO BE RELISTED BY COURT ADMIN UPON APPLICATION CC RULE 236 NOTICE PROVIDED ON 11/03/2022	No	13719701
32		11/9/2022	Notice of Hearing Returned		No	13724301
33	E	11/12/2022	Request for Admissions by	NADIA MARY METROKA	No	13728367
34		11/14/2022	Notice of Scheduling		No	13728670
35		11/14/2022	Notice of Continuance		No	13728671
36		11/15/2022	Notice of Scheduling		No	13730984
37		11/15/2022	Returned Copy		No	13730836
38		11/16/2022	Order - Other	(SUR PLTF'S MOTION TO STRIKE OBJECTIONS) OF 11/15/22 SMYTH,SJ STRICKEN WITHOUT PREJUDICE CC RULE 236 NOTICE PROVIDED ON 11/16/2022	No	13732746
39	E	11/16/2022	Order - Other	OF 11/16/22 TOLLIVER,J PLTF'S MOTION DENIED WITH PREJUDICE CC RULE 236 NOTICE PROVIDED ON 11/16/2022	No	13733173
40		11/17/2022	Order - Other	(CIVIL CASE MANAGEMENT) OF 11/15/22 KEHS,CA FACT DISCOVERY TO BE COMPLETED WITHIN 18 MONTHS RULE 236 NOTICE PROVIDED ON 11/17/2022	No	13734178
41		11/17/2022	Notice of Hearing Returned		No	13734455
42		11/21/2022	Returned Copy		No	13737480
43	E	11/23/2022	Brief	BY IN SUPPORT OF PRELIMINARY OBJECTIONS WITH SERVICE ON 11/23/2022	No	13742111
44	E	11/23/2022	Praec for Argument	MATTER IS APPEALABLE - PRELIMINARY OBJECTIONS OF DEFENDANTS LOWER MORELAND TWP. PD AND OFC. KELLY HEIST	No	13742122
45	E	11/23/2022	Order - Other	OF 11/23/22 TOLLIVER,J LOWER MORELAND TOWNSHIP POLICE PRELIMINARY OBJECTIONS ARE SUSTAINED CC RULE 236 NOTICE PROVIDED ON 11/23/2022	No	13742292
46	E	11/28/2022	Motion	BY NADIA MARY METROKA SUPPLEMENT TO MOTION REQUESTING EMERGENCY INJUNCTION WITH SERVICE ON 11/28/2022	No	13744083
47	E	11/28/2022	Motion	BY NADIA MARY METROKA MOTION FOR RECONSIDERATION	No	13745160
48	E	11/29/2022	Order - Other	OF 11/29/22 MOORE,SJ MATTER IS DENIED CC RULE 236 NOTICE PROVIDED ON 11/29/2022	No	13745520
49		11/29/2022	Notice of Hearing Returned		No	13745628
50		11/29/2022	Returned Copy		No	13745678
51		11/29/2022	Returned Copy		No	13745644
52		11/29/2022	Returned Copy		No	13745850
53	E	11/30/2022	Motion	BY NADIA MARY METROKA REQUEST FOR RECONSIDERATION	No	13747722
54		12/1/2022	Order - Other	OF 11/30/22 MOORE,SJ PLTF'S MOTION IS DENIED CC RULE 236 NOTICE PROVIDED ON 12/01/2022	No	13749322
55		12/6/2022	Returned Copy		No	13754591
56	E	12/7/2022	Order - Scheduling	OF 12/7/22 TOLLIVER,J ARGUMENT SCHEDULED FOR 12/19/22 CC RULE 236 NOTICE PROVIDED ON 12/07/2022	No	13756740

Seq.		Filing Date	Docket Type	Docket Text	Sealed	Filing ID
57	E	12/7/2022	Order - Other	OF 12/7/22 TOLLIVER,J PLTF'S MOTION IS DENIED CC RULE 236 NOTICE PROVIDED ON 12/07/2022	No	13756742
58	E	12/7/2022	Order - Other	OF 12/7/22 TOLLIVER,J PLTF'S MOTION IS DENIED CC RULE 236 NOTICE PROVIDED ON 12/07/2022	No	13757052
59	E	12/7/2022	Affidavit/Certificate of Service of	CERTIFICATE OF SERVICE ON 12/7/2022 TO NADIA MARY METROKA, ESQUIRE AND DAVID J. MACMAIN, ESQUIRE	No	13757263
60	E	12/14/2022	Reply	BY KELLY E HEIS; LOWER MORELAND TOWNSHIP POLICE DEPARTMENT TO IN OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION WITH SERVICE ON 12/14/2022	No	13765072
61	E	12/19/2022	Order - Other	OF 12/19/22 TOLLIVER,J ARGUMENT CANCELLED CC RULE 236 NOTICE PROVIDED ON 12/19/2022	No	13769184
62	E	12/28/2022	Partial Judgment Non Pros Pursuant to Rule 1042.7	AGAINST NADIA MARY METROKA; NADIA MARY METROKA AND IN FAVOR OF ABINGTON MEMORIAL HOSPITAL. NOTICE 236 SENT ON 12-28-2022	No	13778482
63	E	12/29/2022	Affidavit/Certificate of Service of	DEFENDANT ABINGTON MEMORIAL HOSPITAL'S PRAECIPE FOR ENTRY OF JUDGMENT OF NON PROS PURSUANT TO RULE 1042.7 ON 12/29/2022 TO NADIA MARY METROKA, ESQUIRE AND DAVID J. MACMAIN, ESQUIRE	No	13778717
64	E	12/29/2022	Notice of Appeal and Service of Notice to	COMMONWEALTH COURT FROM THE ORDER OF 11/29/2022	No	13779797
65		1/17/2023	Returned Copy		No	13796220
66	E	2/16/2023	Testimony Taken Before	SENIOR JUDGE MOORE ON 11/28/2022	No	13834740
67		2/21/2023	Exhibits to Testimony	TAKEN BEFORE SENIOR JUDGE MOORE ON 11/28/2022	No	13837278
68	E	2/27/2023	Opinion	OF 2/27/23 MOORE,SJ RULE 236 NOTICE PROVIDED ON 02/27/2023	No	13848492
69		3/1/2023	Service List/Record Documents	1512 CD 2022	No	13851634

EXHIBIT 3

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION

NADIA MARY METROKA : NO. 2022-16003

V. : *Docket #10*

LOWER MORELAND TOWNSHIP :
POLICE DEPARTMENT, *et al.*

ORDER

AND NOW, this 23rd day of November, 2022, upon consideration of the Preliminary Objections filed by Defendants Kelly E. Heist and Lower Moreland Township Police Department (filed on September 21, 2022 at Docket #10), and any answers thereto, it is hereby **ORDERED** and **DECREED** as follows:

1. Defendant Lower Moreland Township Police Department's Preliminary Objections are **SUSTAINED**; accordingly, all alleged State Law Claims against the Lower Moreland Township Police Department are **DISMISSED** – Counts I – VIII (including VII Negligence Per Se and VII (a) [sic] Gross Negligence). Furthermore, Count XI as to the Lower Moreland Township Police Department is **DISMISSED**.

2. Defendant Kelly E. Heist's Preliminary Objections are **SUSTAINED** as to Counts IV, V, VII (Negligence Per Se), VII(a) [sic] (Gross Negligence).¹

3. Defendants Lower Moreland Township Police Department and Kelly E. Heist's Preliminary Objections in the nature of a demurrer to Count IX are **SUSTAINED**, without

¹ These are the only State Law Claims in which Heist is specifically named.

prejudice to amend this count to more specifically plead the manner in which Plaintiff was treated unlawfully.

BY THE COURT:


STEVEN C. TOLLIVER, SR., J.

This Order has been E-Filed on 11/23/2022

Copies via **Prothonotary** to:

All Parties of Record

Copies via **Chambers** to:

Court Administration – Civil Division



Judicial Secretary

EXHIBIT 4

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

NADIA MARY METROKA

VS.

NO. 2022-16003

LOWER MORELAND TOWNSHIP POLICE DEPARTMENT

COVER SHEET OF MOVING PARTY

Date of Filing October 18 2022

Moving Party NADIA MARY METROKA

Counsel for Moving Party

Document Filed (Specify) MOTION REQUESTING INJUNCTION

Matter is: = (Appealable) | = (Interlocutory)

Discovery Needed: (Yes) | (No)

If applicable, Civil Case Management Order Discovery Deadline: _____

CERTIFICATIONS - Check **ONLY** if appropriate:

= Counsel certify that they have conferred in a good faith effort to resolve the subject discovery dispute. (Required by Local Rule 208.2(e) on motions relating to discovery.)

 Counsel for moving party certifies that the subject **civil motion** is **uncontested** by all parties involved in the case. (If checked, skip Rule to Show Cause section below.)

By: _____
Counsel for Moving Party

RULE TO SHOW CAUSE - Check **ONE** of the Choices Listed Below:

_____ Respondent is directed to show cause why the moving party is not entitled to the relief requested by filing an **answer** in the form of a **written response** at the **Office of the Prothonotary** on or before the _____ day of _____ 20____.

_____ Respondent is directed to show cause, in the form of a **written response**, why the attached Family Court Discovery Motion is not entitled to the relief requested. Rule Returnable and Argument the _____ day of _____, 20____ at **1:00 p.m. at 321 Swede Street, Norristown, PA.**

_____ Respondent is directed to file a **written response** in conformity with the Pennsylvania Rules of Civil Procedure.

Rule Returnable at time of trial.

By: _____
Court Administrator

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

Nadia Mary Metroka
(Pro Se)

Plaintiff,

Civil Court
Jury Trial Demanded
Case no: 2022 16003-0000

Lower Moreland Township Police Department,
Kelly E. Heist, individually, and as officer/agent for
Lower Moreland Township Police Department,
Google, Abington Memorial Hospital, Capital Blue,

Defendants.

REQUEST FOR EMERGENCY INJUNCTION

Plaintiff provides this request for an injunction against the Lower Moreland Township Police
and their counsel David MacMain and as grounds provides the following:

1. On September 26, 2022, Plaintiff sent a letter via certified mail to Mr. MacMain demanding he make his clients take down the false and defamatory information published to the worldwide web. (Exhibit A).
2. The defamatory article is still on the worldwide web. (Exhibit B).
3. Mr. Macmain has not provided his email address.
4. Mr. Macmain only provided a number to call, a number that goes to his assistant.
5. Plaintiff has not heard from Mr. Macmain and is unable to send him e-mails because his office will not give out his email.
6. Mr. Macmain is neither responsive nor cooperative and apparently not available in this case to resolve disputes without the Court's assistance.
7. The defamatory article is still on the worldwide web. Every day that it is on the web, Plaintiff is harmed. In addition to and not limited to previous harm referenced and future harm

not yet referenced, Plaintiff is a solo practitioner and right now is trying to advertise her law firm on the worldwide web. Consider how the subject conduct is causing harm to Plaintiff in this regard.

8. Plaintiff is accustomed to communicating with opposing counsel in cases to work together toward resolving issues without the need to waste precious judicial resources by seeking assistance from the Court. In this case, Plaintiff has no other options than to request this Court's assistance in issuing an order enjoining the Lower Moreland Township Police and their counsel from continuing this harmful and unlawful conduct.

9. As provided, this is rather time sensitive given the harm will continue unlawfully and damages will accrue for as long as the Police refuse to remove the publication from the worldwide web.

WHEREFORE, Plaintiff requests an emergency injunction enjoining the Lower Moreland Township Police department and their counsel from continuing to publish the defamatory article to the worldwide web.

Respectfully Submitted,

Nadia Mary Metroka Esq.

Nadia Mary Metroka Esq.

Pro Se

110 East Broward Boulevard

Suite 1700

Fort Lauderdale, Florida 33301

Telephone: (305) 906-2704

Nadia Mary Metroka

110 East Broward Boulevard
Suite 1700
Fort Lauderdale, Florida 33301
Telephone: (305) 906-2704

From the Personal Desk of Nadia Mary Metroka Esq

September 26, 2022

Certified Mail w/ Return Receipt # 2022-0410-0000-7171-3186

Attn: Mr. David MacMain Esq.

MacMain Leinhauser

433 W. Market Street

Suite 200

West Chester, PA 19382

Telephone: (484) 318-7106

Facsimile: (484) 328-3996

RE: Nadia Mary Metroka v. Lower Moreland Township Police et. al.

PRIVILEGED AND CONFIDENTIAL COMMUNICATION

Dear Mr. McMaim,

I am writing to inform you that it has been brought to my attention that after you filed your notice of appearance there were additional defamatory posts made on the internet by your client, the Lower Moreland Township Police Department and Kelly E. Heist.

As a lawyer you know or should know that you are not permitted to allow your clients to engage in unlawful conduct. A reasonable person would likely conclude that you are encouraging your clients' unlawful conduct.

See the Pennsylvania Rule of Ethics Preamble that provides:

1. A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including

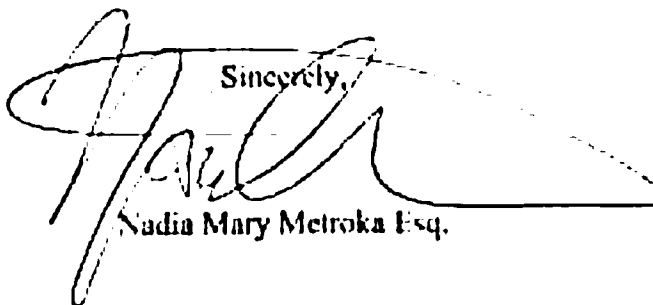
judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

2. As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

Should you fail to take the proper action you will find yourself added to the lawsuit as a defendant.

Consider how yours and your clients' conduct is affecting my mother whose health is already compromised. Consider further what this case could become should you continue to allow your clients to engage in reckless disregard of the law.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Sincerely,

 Nadia Mary Metroka Esq.

Case# 2022-16003-20
 Judicial System of
 Florida
 Case Records of the Appellate and Trial Courts
 Montgomery County Prothonotary on 10/4/2022 at 4:46 PM, Fee = \$0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the United States District Court for the District of Columbia: Case Records of the Appellate and Trial Courts of the District of Columbia are being filed confidentially and documents differ from non-confidentially filed documents.

os://www.google.com/search?q=nadia+metroka&oq=nadia+metroka&aqs=chrome..69i57j0i22i30l2j69i61.2

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Tools

About 2,420 results (0.46 seconds)

<https://montgomery.crimewatchpa.com> › arrests › metrok... 

METROKA, NADIA M - (1) SIMPLE ASSAULT

21, 2022 — **Nadia Metroka** was taken into custody for simple assault, criminal mischief, and harassment. CRIMINAL CHARGES, AND ANY DISCUSSION THEREFORE, ARE ...

Images for nadia metroka

 lawyer  attorney miami dade defendant plaintiff 



[Feedback](#)

[View all](#) →

<https://www.floridabar.org> › directories › find-mbr › pr... 

Member Profile – Nadia Mary Metroka - The Florida Bar

Nadia Mary Metroka. Bar Number: 114435. Mail Address: Medusa Law Group, pllc 110 Broward Blvd Ste 1700. Fort Lauderdale, FL 33301-3500.

You've visited this page many times. Last visit: 5/8/22

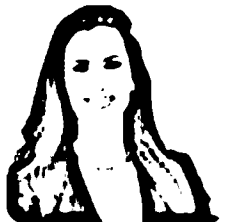


EXHIBIT 5

Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 1512 CD 2022

Page 1 of 3

March 22, 2023



CAPTION

Nadia Mary Metroka,
Appellant

v.

Lower Moreland Township Police
Department, Kelly E. Heist,
individually, and as officer/agent
for Lower Moreland Township
Police Department, Google,
Abington Memorial Hospital,
Capital Blue

CASE INFORMATION

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: February 28, 2023 Awaiting Paperbooks

Journal Number:

Case Category: Civil Case Type(s): Tort

CONSOLIDATED CASES

RELATED CASES

COUNSEL INFORMATION

Appellant Metroka, Nadia Mary

Pro Se: Yes

IFP Status:

Pro Se: Nadia Mary Metroka

Address: 110 E. Borward Blvd Suite 1700
Fort. Lauderdale, FL 33301

Phone No: (305) 906-2704 Fax No:

Appellee Lower Moreland Township Police Department

Pro Se: No

IFP Status:

Attorney: MacMain, David James

Law Firm: MacMain Leinhauser PC

Address: 433 W Market St Ste 200
West Chester, PA 19382

Phone No: (484) 318-7703 Fax No:

Attorney: Conley, Brian Christopher

Law Firm: MacMain Leinhauser PC

Address: 433 W Market St Ste 200
West Chester, PA 19382

Phone No: (484) 667-7745 Fax No:

Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 1512 CD 2022

Page 2 of 3

March 22, 2023



COUNSEL INFORMATION

Appellee Heist, Kelly

Pro Se: No

IFP Status:

Attorney: MacMain, David James
 Law Firm: MacMain Leinhauser PC
 Address: 433 W Market St Ste 200
 West Chester, PA 19382
 Phone No: (484) 318-7703

Fax No:

Attorney: Conley, Brian Christopher
 Law Firm: MacMain Leinhauser PC
 Address: 433 W Market St Ste 200
 West Chester, PA 19382
 Phone No: (484) 667-7745

Fax No:

Appellee Abington Memorial Hospital

Pro Se: No

IFP Status:

Attorney: Tomlinson, Albert Bryan
 Law Firm: Post & Schell, P.C.
 Address: Post & Schell Pc
 1600 Jfk Blvd 4 Penn Ctr
 Philadelphia, PA 19103
 Phone No: (215) 587-1017

Fax No:

AGENCY/TRIAL COURT INFORMATION

Order Appealed From: November 29, 2022

Notice of Appeal Filed: December 29, 2022

Order Type: Lower Court Order

Documents Received: January 19, 2023

Court Below: Montgomery County Court of Common Pleas

County: Montgomery

Division:

Montgomery County Civil Division

Judge: Moore, Bernard A.

OTN:

Docket Number: 2022-16003-0000

Judicial District:

38

ORIGINAL RECORD CONTENT

Original Record Item

Filed Date

Content Description

Trial Court Record

February 28, 2023

Testimony

February 28, 2023

Exhibit(s)

February 28, 2023

Trial Court Opinion

February 28, 2023

Date of Remand of Record:

BRIEFING SCHEDULE

None

None

DOCKET ENTRY

Filed Date

Docket Entry / Filer

Representing

Participant Type

Exit Date

December 29, 2022

Notice of Appeal Filed
 Metroka, Nadia Mary

Appellant

Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 1512 CD 2022

Page 3 of 3

March 22, 2023



DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
February 28, 2023	Trial Court Record Received Montgomery County Civil Division			
February 28, 2023	Transcripts of Testimony Montgomery County Civil Division			
February 28, 2023	Trial Court Exhibits Montgomery County Civil Division			
February 28, 2023	Trial Court Opinion Received Montgomery County Civil Division			
March 8, 2023	Defect Correction Notice Commonwealth Court Filing Office			03/08/2023
	Document Name: DEFECT: Filing fee or App. for IFP, proof of service, identify party/atty., service on ct. reporter, Comment: lower ct. dkt. entries, request for transcript			

EXHIBIT 6

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY,
PENNSYLVANIA

Nadia Mary Metroka
(Pro Se)

Plaintiff,

Civil Court
Jury Trial Demanded
2022-16003-0000

Lower Moreland Township Police Department,
Kelly E. Heist, individually, and as officer/agent for Lower
Moreland Township Police Department,
Google, Abington Memorial Hospital, Capital Blue,

1512 CD 2022

Defendants.

_____ /

NOTICE OF APPEAL

Notice is given that Plaintiff appeals to the Commonwealth Court of Pennsylvania from the order entered on November 29, 2022 by Judge Bernard Moore. And reflected in the docket entry.

2023 JAN 19 AM 9:38
RECEIVED
CLERK OF PENNSYLVANIA
COMMONWEALTH COURT

CERTIFICATE OF SERVICE

I CERTIFY that on December 29, 2022 the foregoing Notice of Appeal was served on all interested parties:

David MacMain Esq.
Brian Conley Esq.
433 West Market Street
Suite 200
West Chester, Pa 19382

Bryan Tomlinson Esq.
Four Penn Center
1600 John F. Kennedy Blvd.
13th Floor
Philadelphia, Pa 19103-2808

Judge Bernard Moore
Montgomery County Court of Common Pleas Courthouse
2 East Airy Street
Norristown, Pa 19401

Manner of Service: E-filing system, Certified Mail w/ Return Receipt, and Electronic Mail

X_____

Date: 12/29/22

EXHIBIT 7

**IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PA
CIVIL ACTION –LAW**

Nadia Mary Metroka	:	Commonwealth Ct. No. 1512 CD 2022
Plaintiff	:	
	:	Comm. Pl. Ct. No. 2022-16003
v.	:	
	:	
Lower Moreland Township Police Department,	:	
et al.	:	
Defendants	:	

OPINION

MOORE, SJ

February 27, 2023

I. FACTS AND PROCEDURAL HISTORY

This appeal has been taken by Nadia Metroka (hereinafter “Plaintiff”) from this Court’s order of November 29, 2022, denying the Plaintiff’s Motion for Preliminary Injunction. The Plaintiff filed her appeal on December 29, 2022. This Court’s decision was proper and should be affirmed.

The Plaintiff commenced this action by filing a Complaint on August 19, 2022 against the Lower Moreland Township Police Department, Officer Heist, Abington Memorial Hospital, Capital Blue and Google (Collectively, “Defendants”). The Plaintiff’s Complaint arises from a domestic incident involving her parents, which resulted in Lower Moreland Police Officers, including Defendant Heist, arresting Plaintiff on several charges, including simple assault, harassment, and criminal mischief.

There was a 911 call placed on June 21, 2022. The Plaintiff’s father, called seeking police intervention due to a domestic incident between him and the Plaintiff. When Officer Heist arrived on the scene the Plaintiff’s father came out from behind the bushes on the side of his house. He was in disarray and he stated that the Plaintiff was still in the house and he wanted her

out. The Plaintiff's father was concerned for her well-being due to how she was acting that night. The Plaintiff's father stated the Plaintiff knocked over a glass bowl from the kitchen counter onto the floor and left the house. When the Plaintiff returned to the house she was extremely irate and appeared mentally unstable. The plaintiff came into the kitchen and knocked everything off the counter and onto the floor. The two had tripped over each other after a little pushing and shoving ensued due to them trying to get back up off the floor. Once the Plaintiff got up off the floor she grabbed an iron musical stand and stood over him. The Plaintiff's father then was able to leave through the back door and wait for the police to arrive.

The Plaintiff's father also told Officer Heist the Plaintiff broke the passenger side window of his car. When the Officer entered the house she noticed pots, pans, and vases all over the floor and chairs flipped all over the floor. The Plaintiff was then arrested. Following the arrest Officer Heist submitted her report. On July 21, 2022, Crime Watch then created their own report of the domestic incident which was published to their website.

The Plaintiff filed her Motion for Preliminary Injunction on November 18, 2022. A hearing was held on November 28, 2022, and then this Court denied the Plaintiff's Motion on November 29, 2022. The Plaintiff then appealed on December 29, 2022.

II. DISCUSSION

The issue in this proceeding is whether this Court correctly denied the Plaintiff's Motion for Preliminary Injunction on November 29, 2022. The Plaintiff appealed this Courts order on December 29, 2022. Preliminary injunctive relief is an extraordinary remedy that is only granted in the most compelling cases.

To obtain a preliminary injunction, a party must show (1) that it is likely to prevail on the merits; (2) that the injunction is necessary to prevent immediate and irreparable harm that cannot

be adequately compensated by damages; (3) that greater injury would result from refusing an injunction than from granting it, and, concomitantly, that issuance of an injunction will not substantially harm other interested parties in the proceedings; (4) that a preliminary injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct; (5) that the injunction it seeks is reasonably suited to abate the offending activity; and (6) that a preliminary injunction will not adversely affect the public interest. See *Iron Age Corp. v. Dvorak*, 880 A.2d 657, 662 (Pa. Super. 2005), citing *Warehime v. Warehime*, 860 A.2d 41, (Pa. 2004).

The Plaintiff is not eligible for Preliminary Injunction relief without an underlying equity complaint. The Defendants Lower Moreland Township Police Department and Officer Heist filed Preliminary Objections to the Plaintiff's Complaint on September 21, 2022. Those Preliminary Objections were sustained on November 23, 2022. All claims against the Lower Moreland Township Police Department and Heist were dismissed, including the defamation claim. With Plaintiff's claim being dismissed the Plaintiff cannot obtain an injunction.

It is well settled that a police department, is not a proper defendant in a civil suit. Pennsylvania Rule of Civil Procedure 2102(b) provides that "[a]n action shall be brought by or against a political subdivision in its name." Pa.R.C.P. No. 2102(b). A political subdivision is defined as "any county, city, borough, incorporated town, township, school district, vocational school district, county institution district or municipal or other local authority." Pa.R.C.P. No. 76. A police department is not a political subdivision, but rather a sub-unit thereof. *Monastra v. Del. County Sheriff's Office*, 49 A.3d 556, 558 (Pa. Cmwlth. 2012) (dismissing all claims against a police department because it was not a proper party) (citing *Johnson v. City of Erie*, 834

F.Supp. 873, 878-79 (W.D.Pa. 1993)). As the Department is not a political subdivision, it is not a proper party.

In order to grant a Preliminary Injunction the activity it seeks to restrain must be actionable, where a right to relief is clear. *Iron Age Corp. v. Dvorak*, 880 A.2d 657, 662 (Pa. Super. 2005). Even if the Court determined the Department was a proper Defendant all of the claims raised by the Plaintiff were properly dismissed because the Department and Officer Heist are immune according to Pennsylvania Political Subdivision Tort Claims Act, 42 Pa.C.S. § 8541. In this proceeding there is no clear right to relief. As a result there is not right to relief. Also, the injunction the Plaintiff is seeking is not reasonably suited to abate the offending activity. The Defendants, the Lower Moreland Police Department and Officer Heist are not the party responsible for the alleged harm. The Plaintiff testified about a website, known as Crime Watch, which published a report about her arrest, and how that has damaged her public image. The issue with that is they are not a named Defendant in this matter.

Furthermore, if the Court granted the Preliminary Injunction it will adversely affect the public interest. The public has an interest in knowing about criminal activity in the community. That is why press releases and police blotter information is public information, and that is not to be protected or suppressed. It is presented to the public in Pennsylvania, the Criminal History Record Information Act, specifically provide that those types of information, police blotters and press releases regarding criminal complaints and criminal incidents are public information. This shows that the public has an interest in this information.

The standard of review for a trial court's decision to issue or deny a preliminary injunction is as follows:

“on an appeal from the grant or denial of a preliminary injunction, [the appellate court will] not inquire into the merits of the controversy, but only examine the record to

determine if there were *any apparently reasonable grounds* for the action of the court below. Only if it is plain that no grounds exist to support the decree or that the rule of law relied upon was palpably erroneous or misapplied will [the appellate court] interfere with the decision of the trial court.”

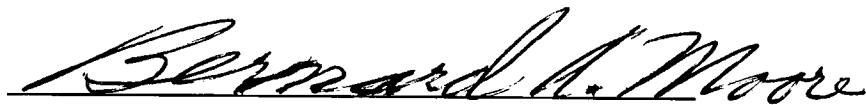
Jarl Investments, L.P. v. Fleck, 937 A.2d 1113, 1125 (Pa. Super. Ct. 2007) quoting *Summit Towne Centre, Inc. v. Shoe Shoiv of Rocky Mount, Inc.*, 573 Pa. 637, 646, 828 A.2d 995, 1000 (2003) (quoting *Roberts v. Board of Dirs. of Sch. Dist.*, 341 A.2d 475, 478 (1975)).

Accordingly, this Court properly denied the Plaintiff’s Motion for Preliminary Injunction and the appeal should be denied.

III. CONCLUSION

This Court properly denied the Plaintiff’s Motion for a Preliminary Injunction. Accordingly, this Court Order should be **AFFIRMED**.

BY THE COURT:



BERNARD A. MOORE, S. J.

EXHIBIT 8

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY

DOCKET



Docket Number: CP-46-CR-0004359-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Nadia Mary Metroka

Page 1 of 5

CASE INFORMATION

Judge Assigned: Ferman, Risa Vetri Date Filed: 08/18/2022 Initiation Date: 06/21/2022
OTN: R 310392-5 LOTN: Originating Docket No: MJ-38208-CR-0000198-2022
Initial Issuing Authority: Jay S. Friedenberg Final Issuing Authority: Jay S. Friedenberg
Arresting Agency: Lower Moreland Twp Police Dept Arresting Officer: Heist, Kelly
Complaint/Citation No.: 22-114 Incident Number: 22-114
County: Montgomery Township: Lower Moreland Township
Case Local Number Type(s): Case Local Number(s):
 Booking Center Location Code LMO

STATUS INFORMATION

<u>Case Status:</u>	<u>Active</u>	<u>Status Date</u>	<u>Processing Status</u>	<u>Arrest Date:</u>	06/21/2022
		03/17/2023	Awaiting Call of the Trial List		
		10/31/2022	Awaiting Pre-Trial Conference		
		10/28/2022	Awaiting Pre-Trial Conference		
		08/19/2022	Awaiting Formal Arraignment		
		08/18/2022	Awaiting Formal Arraignment		
		08/18/2022	Awaiting Filing of Information		

Complaint Date: 06/22/2022

CALENDAR EVENTS

<u>Case Calendar</u>	<u>Schedule</u>	<u>Start</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u>
<u>Event Type</u>	<u>Start Date</u>	<u>Time</u>			<u>Status</u>
Formal Arraignment	09/21/2022	1:30 pm	Video Room #2		Scheduled
Formal Arraignment	10/24/2022	11:00 am	Courtroom 13	Senior Judge Joseph A. Smyth	Scheduled
Pre-Trial Conference	03/17/2023	9:00 am	Courtroom F	Judge Risa Vetri Ferman	Scheduled

DEFENDANT INFORMATION

Date Of Birth: 06/15/1986 City/State/Zip: Fort Lauderdale, FL 33301

CASE PARTICIPANTS

<u>Participant Type</u>	<u>Name</u>
Defendant	Metroka, Nadia Mary

BAIL INFORMATION

Metroka, Nadia Mary

Nebbia Status: None

<u>Bail Action</u>	<u>Date</u>	<u>Bail Type</u>	<u>Originating Court</u>	<u>Percentage</u>	<u>Amount</u>
Set	06/22/2022	Unsecured	Magisterial District Court		\$5,000.00

<u>Surety Type</u>	<u>Surety Name</u>	<u>Posting Status</u>	<u>Posting Date</u>	<u>Security Type</u>	<u>Security Amt</u>
Self	Metroka, Nadia Mary	Posted	06/22/2022	Bond Signature	\$0.00

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY**DOCKET**

Docket Number: CP-46-CR-0004359-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Page 2 of 5

Nadia Mary Metroka

CHARGES

<u>Seq.</u>	<u>Orig Seq.</u>	<u>Grade</u>	<u>Statute</u>	<u>Statute Description</u>	<u>Offense Dt.</u>	<u>OTN</u>
1	2	M3	18 § 3304 §§ A1	Crim Misch/Dmg Prop Intent, Reckless, Or Neglig	06/21/2022	R 310392-5
2	3	S	18 § 2709 §§ A1	Harassment - Subject Other to Physical Contact	06/21/2022	R 310392-5
99,999	1	M2	18 § 2701 §§ A3	Simple Assault	06/21/2022	R 310392-5

DISPOSITION SENTENCING/PENALTIESDispositionCase EventSequence/DescriptionSentencing JudgeSentence/Diversion Program TypeSentence ConditionsDisposition DateOffense DispositionSentence DateIncarceration/Diversionary PeriodFinal DispositionGrade SectionCredit For Time ServedStart Date**Held for Court (Lower Court)**

Defendant Was Present

Lower Court Disposition

08/08/2022

Not Final

1 / Crim Misch/Dmg Prop Intent, Reckless, Or Neglig

Held for Court (Lower Court)

M3

18 § 3304 §§ A1

2 / Harassment - Subject Other to Physical Contact

Held for Court (Lower Court)

S

18 § 2709 §§ A1

99,999 / Simple Assault

Dismissed (Lower Court)

M2

18 § 2701 §§ A3

Proceed to Court

Defendant Was Not Present

Information Filed

10/13/2022

Not Final

1 / Crim Misch/Dmg Prop Intent, Reckless, Or Neglig

Proceed to Court

M3

18 § 3304 §§ A1

2 / Harassment - Subject Other to Physical Contact

Proceed to Court

S

18 § 2709 §§ A1

99,999 / Simple Assault

Disposed at Lower Court

M2

18 § 2701 §§ A3

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY**DOCKET**

Docket Number: CP-46-CR-0004359-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Nadia Mary Metroka

Page 3 of 5

COMMONWEALTH INFORMATIONName: Scott Frank Frame

District Attorney

Supreme Court No: 316027Phone Number(s):
610-278-3918 (Phone)Address:Montgomery Co Da's Office
Po Box 311
Norristown, PA 19404**ATTORNEY INFORMATION**Name:Supreme Court No:Rep. Status:Phone Number(s):Name: Montgomery County District Attorney's
Office - Criminal Division
District AttorneySupreme Court No:Phone Number(s):
610-278-3090 (Phone)Address:Montgomery County Courthouse
PO Box 311
Norristown, PA 19404**ENTRIES**

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
<u>Service To</u>		<u>Service By</u>	
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>
1	06/22/2022		Metroka, Nadia Mary
Bail Posted - Metroka, Nadia Mary			
Montgomery County District Attorney's			
Office - Criminal Division			
08/19/2022	eService		Served
2	06/22/2022		Zaffarano, Patricia Ann
Bail Set - Metroka, Nadia Mary			
1	08/18/2022		Court of Common Pleas - Montgomery County
Original Papers Received from Lower Court			
Montgomery County District Attorney's			
Office - Criminal Division			
08/19/2022	eService		Served

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY**DOCKET**

Docket Number: CP-46-CR-0004359-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Nadia Mary Metroka

Page 4 of 5

ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
<u>Service To</u>	<u>Service By</u>		
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>
1	09/28/2022		Montgomery County Court Administration
Hearing Notice			
Montgomery County District Attorney's			
Office - Criminal Division			
09/28/2022	eService		Served
1	10/13/2022		Commonwealth of Pennsylvania
Information Filed			
Montgomery County District Attorney's			
Office - Criminal Division			
10/17/2022	eService		Served
1	10/28/2022		Metroka, Nadia Mary
Change of Address			
2	10/28/2022	10/27/2022	Metroka, Nadia Mary
Waiver of Appearance at Arraignment			
Frame, Scott Frank			
10/28/2022	eService		Served
Montgomery County District Attorney's			
Office - Criminal Division			
10/28/2022	eService		Served
1	12/01/2022	11/22/2022	Court of Common Pleas - Montgomery County
Bill of Costs Filed			
Frame, Scott Frank			
12/01/2022	eService		Served
Montgomery County District Attorney's			
Office - Criminal Division			
12/01/2022	eService		Served
2	02/21/2023		Montgomery County Court Administration
Hearing Notice			
Frame, Scott Frank			
02/21/2023	eService		Served

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY**DOCKET**

Docket Number: CP-46-CR-0004359-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Nadia Mary Metroka

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ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
<u>Service To</u>	<u>Service By</u>		
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>
Montgomery County District Attorney's Office - Criminal Division 02/21/2023	eService		Served
1	03/17/2023	03/17/2023	Ferman, Risa Vetri
Pre-Trial Conference Order Frame, Scott Frank 03/17/2023	eService		Served
Montgomery County District Attorney's Office - Criminal Division 03/17/2023	eService		Served

CASE FINANCIAL INFORMATION

Last Payment Date:		Total of Last Payment:			
Metroka, Nadia Mary	<u>Assessment</u>	<u>Payments</u>	<u>Adjustments</u>	<u>Non Monetary Payments</u>	<u>Balance</u>
Defendant					
Costs/Fees					
County Lab Fees (Montgomery)	\$247.00	\$0.00	\$0.00	\$0.00	\$247.00
Costs/Fees Totals:	\$247.00	\$0.00	\$0.00	\$0.00	\$247.00
Grand Totals:	\$247.00	\$0.00	\$0.00	\$0.00	\$247.00

** - Indicates assessment is subrogated

CERTIFICATE OF SERVICE

I, Brian C. Conley, Esquire, hereby certify that on this 23rd day of March 2023, the foregoing was filed electronically and served upon the following via electronic filing or USPS regular mail:

Nadia Mary Metroka
110 East Broward Boulevard
Suite 1700
Fort Lauderdale, FL 33301
Pro se Plaintiff
(VIA regular mail)

Ryan James
Tucker Arsenberg, P.C.
1500 One PPG Place
Pittsburgh, PA 15222
Attorney for Defendant Google LLC
(VIA ECF)

MACMAIN LEINHAUSER PC

Dated: March 23, 2023

By: /s/ Brian C. Conley
David J. MacMain
Brian C. Conley
Attorney I.D. Nos. 59320 / 311372
433 W. Market Street, Suite 200
West Chester, PA 19382
*Attorneys for Defendants Lower Moreland
Township Police Department and Officer
Kelly Heist*